

4-22-2008

# State v. Pokorney Clerk's Record v. 1 Dckt. 34945

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs)

---

## Recommended Citation

"State v. Pokorney Clerk's Record v. 1 Dckt. 34945" (2008). *Idaho Supreme Court Records & Briefs*. 898.  
[https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs/898](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/898)

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law.

LAW CLERK

IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

STATE OF IDAHO,  
PLAINTIFF-RESPONDENT,

VS.

RICHARD DAVID POKORNEY,  
DEFENDANT-APPELLANT.

*Appealed from the District Court of the Fourth Judicial  
District of the State of Idaho, in and for ADA County*

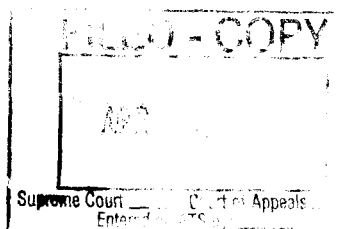
*Hon MICHAEL R. MCLAUGHLIN, District Judge*

MOLLY HUSKEY  
State Appellate Public Defender

*Attorney for Appellant*

LAWRENCE G. WASDEN  
Attorney General

*Attorney for Respondent*



34945

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

RICHARD DAVID POKORNEY,

Defendant-Appellant.

Supreme Court Case No. 34945

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE MICHAEL R. MCLAUGHLIN

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

<b>TABLE OF CONTENTS.....</b>	<b>PAGE NO.</b>
REGISTER OF ACTIONS .....	3
NO CONTACT ORDER, FILED JANUARY 29, 2007 .....	7
INDICTMENT, FILED FEBRUARY 6, 2007 .....	8
MOTION TO TRANSFER BOND AND TRANSFER PREVIOUSLY ENTERED NO CONTACT ORDERS TO H0700182, FILED FEBRUARY 7, 2007 .....	11
ORDER TO TRANSFER BOND AND TRANSFER PREVIOUSLY ENTERED NO CONTACT ORDERS TO CASE H0700182, FILED FEBRUARY 7, 2007 .....	12
COURT MINUTES: FEBRUARY 9, 2007 .....	13
MOTION FOR BOND REDUCTION, FILED FEBRUARY 9, 2007 .....	16
MOTION FOR GRAND JURY TRANSCRIPT, FILED FEBRUARY 12, 2007 .....	17
COURT MINUTES: FEBRUARY 16, 2007 .....	19
NOTICE OF INTENT TO INTRODUCE EVIDENCE PURSUANT TO IRE 404(b) AND STATE'S BRIEF IN SUPPORT, FILED MAY 17, 2007 .....	21
MOTION TO EXCLUDE EVIDENCE, FILED MAY 21, 2007 .....	38
STATE'S OBJECTION AND RESPONSE TO DEFENDANT'S MOTION TO EXCLUDE EVIDENCE, FILED MAY 29, 2007 .....	42
COURT MINUTES: JUNE 1, 2007 .....	72
MOTION TO RESET JURY TRIAL, FILED JUNE 7, 2007 .....	74
COURT MINUTES: JUNE 13, 2007 .....	76
JUNE 20, 2007 .....	78
MOTION TO RESET JURY TRIAL, FILED SEPTEMBER 7, 2007 .....	80
COURT MINUTES: SEPTEMBER 21, 2007 .....	84
OCTOBER 10, 2007 .....	86
STATE'S LIST OF POTENTIAL TRIAL WITNESSES, FILED OCTOBER 10, 2007 .....	88

**TABLE OF CONTENTS.....PAGE NO.**

DEFENDANT'S LIST OF POTENTIAL TRIAL WITNESSES, FILED OCTOBER 10, 2007 .....	90
COURT MINUTES: OCTOBER 15, 2007 .....	91
OCTOBER 16, 2007 .....	93
OCTOBER 17, 2007 .....	96
OCTOBER 18, 2007 .....	98
OCTOBER 22, 2007 .....	102
VERDICT, FILED OCTOBER 22, 2007 .....	109
ORDER FOR PSYCHOSEXUAL EVALUATION, FILED OCTOBER 29, 2007 .....	111
COURT MINUTES: JANUARY 9, 2008 .....	113
JUDGMENT OF CONVICTION, FILED JANUARY 10, 2008 .....	115
NOTICE OF APPEAL, FILED JANUARY 17, 2008 .....	119
ORDER APPOINTING STATE APPELLATE PUBLIC DEFENDER ON DIRECT APPEAL, FILED JANUARY 22, 2008 .....	122
AMENDED NOTICE OF APPEAL, FILED FEBRUARY 28, 2008 .....	123
CERTIFICATE OF EXHIBITS .....	128
CERTIFICATE OF SERVICE .....	130
CERTIFICATE TO RECORD .....	131

**INDEX TO THE CLERK'S RECORD.....PAGE NO.**

AMENDED NOTICE OF APPEAL, FILED FEBRUARY 28, 2008 .....	123
CERTIFICATE OF EXHIBITS.....	128
CERTIFICATE OF SERVICE .....	130
CERTIFICATE TO RECORD .....	131
COURT MINUTES: FEBRUARY 9, 2007.....	13
FEBRUARY 16, 2007 .....	19
JUNE 1, 2007.....	72
JUNE 13, 2007.....	76
JUNE 20, 2007.....	78
SEPTEMBER 21, 2007 .....	84
OCTOBER 10, 2007.....	86
OCTOBER 15, 2007.....	91
OCTOBER 16, 2007.....	93
OCTOBER 17, 2007.....	96
OCTOBER 18, 2007.....	98
OCTOBER 22, 2007.....	102
JANUARY 9, 2008.....	113
DEFENDANT'S LIST OF POTENTIAL TRIAL WITNESSES, FILED OCTOBER 10, 2007 .....	90
INDICTMENT, FILED FEBRUARY 6, 2007 .....	8
JUDGMENT OF CONVICTION, FILED JANUARY 10, 2008 .....	115
MOTION FOR BOND REDUCTION, FILED FEBRUARY 9, 2007.....	16
MOTION FOR GRAND JURY TRANSCRIPT, FILED FEBRUARY 12, 2007 .....	17
MOTION TO EXCLUDE EVIDENCE, FILED MAY 21, 2007 .....	38
MOTION TO RESET JURY TRIAL, FILED JUNE 7, 2007 .....	74
MOTION TO RESET JURY TRIAL, FILED SEPTEMBER 7, 2007.....	80
MOTION TO TRANSFER BOND AND TRANSFER PREVIOUSLY ENTERED NO CONTACT ORDERS TO H0700182, FILED FEBRUARY 7, 2007 .....	11

**INDEX TO THE CLERK'S RECORD.....PAGE NO.**

NO CONTACT ORDER, FILED JANUARY 29, 2007 .....	7
NOTICE OF APPEAL, FILED JANUARY 17, 2008.....	119
NOTICE OF INTENT TO INTRODUCE EVIDENCE PURSUANT TO IRE 404(b) AND STATE'S BRIEF IN SUPPORT, FILED MAY 17, 2007.....	21
ORDER APPOINTING STATE APPELLATE PUBLIC DEFENDER ON DIRECT APPEAL, FILED JANUARY 22, 2008.....	122
ORDER FOR PSYCHOSEXUAL EVALUATION, FILED OCTOBER 29, 2007.....	111
ORDER TO TRANSFER BOND AND TRANSFER PREVIOUSLY ENTERED NO CONTACT ORDERS TO CASE H0700182, FILED FEBRUARY 7, 2007.....	12
REGISTER OF ACTIONS .....	3
STATE'S LIST OF POTENTIAL TRIAL WITNESSES, FILED OCTOBER 10, 2007 .....	88
STATE'S OBJECTION AND RESPONSE TO DEFENDANT'S MOTION TO EXCLUDE EVIDENCE, FILED MAY 29, 2007 .....	42
VERDICT, FILED OCTOBER 22, 2007 .....	109

# ADA COUNTY

## Register of Actions

Case# M0701327



**Court** 2-Magistrate  
**Issuing Agency** A-Ada County  
**Municipality** AD-Ada County  
**Judge** 227-James Cawthon  
**Case Ref** M0700520  
**Prosecutor** A-172 Fafa Alidjani  
**Victim Coordinator** A-054 Danielle Teuber  
1/26/2007 Case Created

01/29/2007 Case Created

ID

### Defendant(s):

01 POKORNEY RICHARD DAVID

LE# 000070905

### Charge(s):

001 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony
002 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony
003 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony
004 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony
005 S 18-1506	SEX ABUSE OF CHILD UNDER AGE 16	Felony
006 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony
007 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony

### Register of Actions:

01/29/2007	Case Opened	ID
01/29/2007	Video Arraignment 01/29/2007	ID
01/29/2007	001 Charge Booked by ACSO	ID
01/29/2007	005 Charge Booked by ACSO	ID
01/29/2007	002 Charge Booked by ACSO	ID
01/29/2007	003 Charge Booked by ACSO	ID
01/29/2007	004 Charge Booked by ACSO	ID
01/29/2007	006 Charge Booked by ACSO	ID
01/29/2007	007 Charge Booked by ACSO	ID
01/29/2007	Video Arraignment Video Arraignment 01/29/2007	SM
01/29/2007	001 Charge Filed Cause Found	SH
01/29/2007	002 Charge Filed Cause Found	SH
01/29/2007	003 Charge Filed Cause Found	SH
01/29/2007	004 Charge Filed Cause Found	SH
01/29/2007	005 Charge Filed Cause Found	SH
01/29/2007	006 Charge Filed Cause Found	SH
01/29/2007	007 Charge Filed Cause Found	SH
01/29/2007	Video Arraignment	HM
01/29/2007	Order Appointing Public Defender	HM
01/29/2007	001 Bond Reduced or Amended to \$1000000.00	HM
01/29/2007	Order No Contact w/All <u>Minor</u> Children ...DR#639330	HM
01/29/2007	Event Scheduled Preliminary Hearing 02/12/2007	GS
01/30/2007	Notice of Hearing	KM
01/30/2007	Motion for Bond Reduction	KM
01/30/2007	Defendant Request For Discovery	KM
02/07/2007	Ref H0700182	SM
02/07/2007	INDICTMENT FILED	SM

00003



# ADA COUNTY

## Register of Actions

Case# H0700182



Court 1-District  
Issuing Agency A-Ada County  
Municipality AD-Ada County  
Judge 189-Michael R. McLaughlin  
Case Ref G0700010  
Prosecutor A-172 Fafa Alidjani  
Victim Coordinator A-054 Danielle Teuber  
2/07/2007 Case Created Indicted G0700010

02/07/2007 Case Created Indicted G0700010

SM

### Defendant(s):

01 POKORNEY RICHARD DAVID

LE# 000070905

### Charge(s):

001 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007
002 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007
003 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007
004 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007
005 S 18-1506	SEX ABUSE OF CHILD UNDER AGE 16	Felony	Disposed	10/22/2007
006 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007
007 S 18-1508	LEWD CONDUCT W/MINOR UNDER 16	Felony	Disposed	10/22/2007

### Register of Actions:

02/07/2007	001	Committment and Papers	SM
02/07/2007	001	Defendant Transferred In G0700010 D.01	SM
02/07/2007	001	Count Indicted From G0700010 D.01 C.001	SM
02/07/2007	002	Count Indicted From G0700010 D.01 C.002	SM
02/07/2007	003	Count Indicted From G0700010 D.01 C.003	SM
02/07/2007	004	Count Indicted From G0700010 D.01 C.004	SM
02/07/2007	005	Count Indicted From G0700010 D.01 C.005	SM
02/07/2007	006	Count Indicted From G0700010 D.01 C.006	SM
02/07/2007	007	Count Indicted From G0700010 D.01 C.007	SM
02/07/2007		INDICTMENT FILED	SM
02/07/2007		Arraignment 02/09/2007	SM
02/07/2007		Video Arraignment Arraignment 02/08/2007	SM
02/08/2007		Video Arraignment	MP
02/08/2007		Arraignment Arraignment 02/09/2007	MD
02/09/2007		Arraignment	AH
02/09/2007		Continued For Plea	AH
02/12/2007		Motn for Bond Reduc ...tion	AH
02/12/2007		Motion for GJ Transcript	SR
02/16/2007		Arraignment (Con't)	AH
02/16/2007		Event Scheduled Pre-Trial Conference 06/01/2007	AH
02/16/2007		Jury Trial Set 06/18/2007	AH
02/21/2007		Order for Grand Jury Tran- ...script	NT
02/23/2007		State's Response to ...Defends Request for ...Un-redacted ...Discovery to Court	SR
03/27/2007		Notice of Preparation of ...GJ Transcript	RC
04/11/2007		GJ Transcript Filed	RC
05/11/2007		State/City Request for Discovery	SR
05/11/2007		State/City Response to Disc. Req.	SR
05/16/2007		State/City Response to Disc. Req. /Addendum	RC
05/17/2007		Notice of Intent to Introdu	SG

00004

# ADA COUNTY

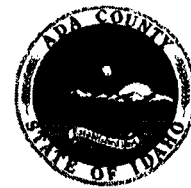
## Register of Actions

Case# H0700182



	...Evidence & State's	
	...Brief in Support	
05/21/2007	Motion to Exclude Evidence	RC
05/22/2007	State/City Response to Disc. Req. /Second Addendum	RC
05/22/2007	Second Addendum to	RC
	...Discovery	
05/22/2007	Addendum Notice of	RC
	...Intent to Introduce	
	...Evidence Pursuant to	
	...IRE 404b and IRC	
	...Rule 16	
05/22/2007	Notice of Hearing	AK
05/24/2007	Notice of Hearing	SG
05/29/2007	State's Objection &	RC
	...Response to	
	...Defendant's Motion	
	...to Exclude Evidence	
06/01/2007	Pre-Trial Conference	KB
06/01/2007	001 Not Guilty Plea	KB
06/01/2007	002 Not Guilty Plea	KB
06/01/2007	003 Not Guilty Plea	KB
06/01/2007	004 Not Guilty Plea	KB
06/01/2007	005 Not Guilty Plea	KB
06/01/2007	Jury Trial Set 07/23/2007	KB
06/01/2007	006 Not Guilty Plea	KB
06/01/2007	007 Not Guilty Plea	KB
06/01/2007	Event Scheduled Pre-Trial Conference 07/13/2007	KB
06/05/2007	Amended Sch. Order	KB
06/05/2007	State/City Response to Disc. Req. /Third Addendum	RC
06/07/2007	Event Scheduled Hearing 06/13/2007	KB
06/07/2007	Motion to Reset JT	RC
06/11/2007	Notice OF HEARING	KB
06/13/2007	Hearing	KB
06/13/2007	Event Scheduled Hearing 06/18/2007	KB
06/15/2007	State/City Response to Disc. Req. /Fourth Addendum	AK
06/19/2007	Event Scheduled Hearing 06/20/2007	KB
06/20/2007	Hearing	KB
06/20/2007	Jury Trial Set 10/15/2007	KB
06/20/2007	Event Scheduled Pre-Trial Conference 10/05/2007	KB
06/26/2007	AMENDED SCH. ORDER	KB
08/30/2007	Defendant Response to Disc. Req.	KP
08/30/2007	State/City Response to Disc. Req. /Fifth Addendum	KP
08/31/2007	State/City Response to Disc. Req. /Sixth Addendum	KP
08/31/2007	Defendant Request For Discovery	KP
09/07/2007	Motion to Reset JT	RC
09/12/2007	Notice Of Hearing RE:States	KP
	...Motion To Reset JT	
09/13/2007	State/City Response to Disc. Req. /to Specific	RC
09/13/2007	State/City Request for Discovery /Specific	RC
09/17/2007	Event Scheduled Hearing 09/21/2007	KB
09/21/2007	Hearing	KB
09/21/2007	Event Scheduled Pre-Trial Conference 10/10/2007	KB
09/21/2007	Jury Trial Set 10/16/2007	KB
10/10/2007	Pre-Trial Conference	KB
10/10/2007	Event Scheduled Hearing 10/15/2007	KB
10/10/2007	State's List of	KB
	...Trial Witnesses	
10/10/2007	Def's List of Trial	KB

00005



10/15/2007	...	Witnesses	
10/16/2007		Hearing	KB
10/22/2007		Jury Trial	KB
10/22/2007		to Broadcast	KB
10/22/2007	004	Dismissed Before Trial or Hearing	KB
10/22/2007	001	Defendant Found Guilty	KB
10/22/2007	002	Defendant Found Guilty	KB
10/22/2007	003	Defendent Acquitted	KB
10/22/2007	005	Defendant Found Guilty	KB
10/22/2007	006	Defendant Found Guilty	KB
10/22/2007	007	Defendant Found Guilty	KB
10/22/2007		Instructions to the	KB
		....Jury	
10/22/2007		Event Scheduled Sentencing Hearing 01/09/2008	KB
10/22/2007		Jury Verdict	KB
10/29/2007		Order for SANE Evaluation	KB
01/09/2008		Sentence Hearing	KB
01/09/2008	001	Final Judgment, Order or Decree	KB
01/09/2008	001	Sentenced to ISCI 999y 364d cr	KB
01/09/2008	002	Final Judgment, Order or Decree	KB
01/09/2008	002	Sentenced to ISCI 999d 264d cr	KB
01/09/2008	005	Final Judgment, Order or Decree	KB
01/09/2008	005	Sentenced to ISCI 999y 364d cr	KB
01/09/2008	006	Final Judgment, Order or Decree	KB
01/09/2008	006	Sentenced to ISCI 999y 364d cr	KB
01/09/2008	007	Final Judgment, Order or Decree	KB
01/09/2008	007	Sentenced to ISCI 999y 364d cr	KB
01/09/2008		All Counts CC	KB
01/10/2008		Judgment of Convict	SA
01/17/2008		Notice of Appeal	AU
01/22/2008		Order Appointing SAPD	SA
02/28/2008		Amended Notice Of	BT
		...Appeal	

FILED 1-29-07 AT 338P.M.  
J. DAVID NAVARRO,  
CLERK OF THE DISTRICT COURT  
BY Amorly  
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Richard David Pokorney  
DOB 5/30/53 SSN 553-96-5387  
Defendant.

Case No. 110701327  
Reference No. \_\_\_\_\_

NO CONTACT ORDER

DR # 639330

☐ Ada ☐ Boise ☐ GC ☐ Meridian

The above-entitled matter having come before the Court, and good cause appearing therefor,

IT IS HEREBY ORDERED that the above-named defendant shall not contact (including: in person or through another person, or in writing or e-mail, or by telephone, pager, or facsimile) or attempt to contact, harass, follow, communicate with, or knowingly remain within 100 feet of: All minor children

Exceptions are:

- ☒ no exceptions  
☐ to contact by telephone between \_\_\_\_\_ .m. and \_\_\_\_\_ .m. on \_\_\_\_\_  
\_\_\_\_\_ for the following purposes: \_\_\_\_\_  
☐ to participate in counseling/mediation  
☐ to meet with or through attorneys and/or during legal proceedings  
☐ to respond to emergencies involving the natural or adopted children of both parties  
☐ other: \_\_\_\_\_

IT IS FURTHER ORDERED that the defendant named herein shall not go within 300 yards of the above-named person's residence or workplace as set forth below (provide this information only if requested by prosecution):

Residence Address \_\_\_\_\_

Work Address \_\_\_\_\_

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under Idaho Code § 18-920, for which no bail will be set until an appearance before a judge, and is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not to exceed one (1) year, or both. Further, any such violation of this order may result in the increase, revocation, or modification of the bond set in the underlying charge for which this no contact order was imposed.

If there is more than one domestic violence protection order in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order.

This order controls over all no contact orders previously entered in this case.

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WILL EXPIRE:

☒ at 11:59 p.m. on 1-29-09

OR ☐ upon dismissal of this case.

Defendant \_\_\_\_\_

DS 1-29-07  
Judge Date

Served by: \_\_\_\_\_

Dated served: 00007

NO CONTACT ORDER

White-FILE Green-ACSO Pink-DEFENDANT Yellow-PROSECUTOR

IDEX 4 2007

FILED  
NO. \_\_\_\_\_  
FILED AM. \_\_\_\_\_ PM. 10:05  
FEB 03 2004  
JAMES H. HARRIS  
CLERK

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	H0700182
	)	Grand Jury No. 07-10
vs.	)	
	)	INDICTMENT
RICHARD DAVID POKORNEY,	)	Defendant's DOB: 5/30/1953
	)	Defendant's SSN: 553-96-5387
Defendant.	)	
_____	)	

RICHARD DAVID POKORNEY is accused by the Grand Jury of Ada County by this Indictment, of the crime(s) of: I-VII. LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, FELONY, I.C. §18-1508, (SEVEN COUNTS) committed as follows:

COUNT I

That the defendant, RICHARD DAVID POKORNEY, on or between May of 2003 to May of 2004, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Randson P., a child under the age of sixteen years, to-wit: of the age of five (5) years (DOB: 05-21-1998), by genital to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child.

COUNT II

That the defendant, RICHARD DAVID POKORNEY, on or between June 2004, and May 2006, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Randson P., a child under the age of sixteen years, to-wit: of the age of ~~five (5)~~ <sup>Six (6) Jan 21/07</sup> through age seven (7) years (DOB: 05-21-1998), by genital to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child. †

COUNT III

That the defendant, RICHARD DAVID POKORNEY, on or during the year 2006, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Jarek P., a child under the age of sixteen years, to-wit: of the age of four (4) years (DOB: 01-04-2002), by manual to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child. 0

COUNT IV

That the defendant, RICHARD DAVID POKORNEY, on or about year 2006, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Jarek P., a child under the age of sixteen years, to-wit: of the age of four (4) years (DOB: 01-04-2002), by putting his penis in to the child's mouth with the intent to appeal to the sexual desire of the Defendant and/or said minor child. 0

COUNT V

That the defendant, RICHARD DAVID POKORNEY, during the years 2005 and 2006, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Wesley P., a child under the age of sixteen years, to-wit: of the age of ten (10) through age eleven (11) years (DOB: 04-18-1995), by manual to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child. †

COUNT VI

That the defendant, RICHARD DAVID POKORNEY, on or between the years of 1996 <sup>5 Jan 21/07</sup> and 1997 <sup>6 Jan 21/07</sup>, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and

lascivious act with the body of a minor, Jason G., a child under the age of sixteen years, to-wit: of the age of twelve (12) and thirteen (13) years (DOB: 01-07-1984), by manual to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child. f

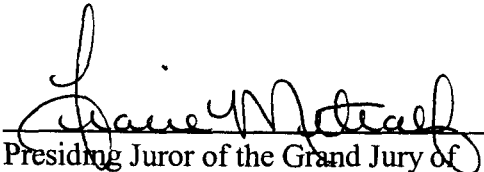
COUNT VII

That the defendant, RICHARD DAVID POKORNEY, on or between the years of 1996 <sup>5 Jan 2007</sup> and 1997 <sup>6 Jan 2007</sup>, in the County of Ada, State of Idaho, did willfully and lewdly, commit a lewd and lascivious act with the body of a minor, Jason G., a child under the age of sixteen years, to-wit: of the age of twelve (12) and thirteen (13) years (DOB: 01-07-1984), by oral to genital contact with the intent to appeal to the sexual desire of the Defendant and/or said minor child. t

All of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the State of Idaho.

A TRUE BILL

Presented in open Court this 6 day of February 2007.

  
\_\_\_\_\_  
Presiding Juror of the Grand Jury of  
Ada County, State of Idaho.

FILED  
NO. 4:00  
FILED AM

*Greg H. Bower*  
CLERK OF DISTRICT COURT

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Fafa Alidjani  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. M0701327</b>
	)	
vs.	)	<b>MOTION TO TRANSFER BOND</b>
	)	<b>AND TRANSFER PREVIOUSLY</b>
RICHARD DAVID POKORNEY,	)	<b>ENTERED NO CONTACT</b>
	)	<b>ORDERS TO</b>
Defendant.	)	<b><u>H0700182</u></b>
_____	)	

**COMES NOW, GREG H. BOWER**, Ada County Prosecuting Attorney, and moves this Court that in the State of Idaho vs. RICHARD DAVID POKORNEY, case M0701327, that the bond and/or any no-contact orders previously set in Magistrate Court in case M0701327 be transferred to the District Court case number H0700182.

**DATED** this 7<sup>th</sup> day of February, 2007.

*Greg H. Bower*  
**GREG H. BOWER**  
Ada County Prosecuting Attorney



**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

FILED  
NO. \_\_\_\_\_  
FILED A.M. \_\_\_\_\_ P.M. 4:00

FEB 07 2007

J. DAVID NAVAREDO  
*J. David Navaredo*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

Case No. M0701327

**ORDER TO TRANSFER BOND  
AND TRANSFER PREVIOUSLY  
ENTERED NO CONTACT  
ORDERS TO CASE H 0700182**

**THE COURT** having heard the motion heretofore made in the State of Idaho vs. RICHARD DAVID POKORNEY, by **GREG H. BOWER**, Ada County Prosecuting Attorney, and the Court being fully advised in the premises;

**IT IS HEREBY ORDERED** that the bond set in the amount of \$ 1,000,000 in case M0701327 be transferred to District Court case H 0700182 due to the Defendant's Indictment by the Ada County Grand Jury. *The defendant is to continue to be held in custody or released on bond under the same conditions set by the Magistrate.*

**IT IS FURTHER ORDERED** that any bond and/or no contact orders previously set in Magistrate Court case M0701327 is transferred to District Court case H 0700182.

**DATED** this 7 day of February, 2007.

*Paula Williamson*  
Judge

**ORDER TO TRANSFER BOND AND TRANSFER PREVIOUSLY ENTERED NO-CONTACT ORDERS (POKORNEY), Page 1**

00012

CJ3EMIN  
TCHULLCJ

ADA COUNTY MAGISTRATE MINUTES

2/08/2007  
10:22:44

SCHEDULED EVENT:  
Arraignment

JUDGE:  
Michael R. McLaughlin

CLERK:  
Mandi Hall

DATE: 02/09/2007 TIME: 9:00

COURT REPORTER:

TAPE NO:

PR/AGY: AC FROS:

F.D./ATTORNEY

POKORNEY RICHARD DAVID

H0700182.01 SSN 553-94-5387 DOB 05/30/1953

1 LEWD CONDU S 18 1508

F

2 LEWD CONDU S 18 1508

F

3 LEWD CONDU S 18 1508

F

4 LEWD CONDU S 18 1508

F

5 SEX ABUSE S 18 1506

F

6 LEWD CONDU S 18 1508

F

7 LEWD CONDU S 18 1508

F

160411

Case Called Def:

☒ Present

☐ Not Pres.

☒ In Custody

☐ Advised of Rights

☐ Waived Rts

☐ PD Appointed

☐ Waived Atty

☐ Guilty Plea/FV Admit

☐ N/G Plea

☐ Advise Subseqt Penalty

☒ Bond \$

1,000,000.00

☐ ROR

☐ Pay/Stay

☐ Payment Agr

2 Advised

AR w/McLaughlin

2/9/07 @ 9:00

160547

Finish ( ) Release Defendant

War# H9400004 Def# 01 Seq# 02 Type P Docket#

Rev: 3/97

00013

Session: McLaughlin020907  
Session Date: 2007/02/09  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:06

Courtroom: CR507

Clerk(s):  
Hunt, Angela

State Attorneys:  
Alidjani, Fafa  
Bratcher, Kimberlee  
Haws, Joshua  
Owen, Patrick

Public Defender(s):  
DeAngelo, Michael  
Odessey, Edward  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0012

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Joshua  
Public Defender: Odessey, Edward

2007/02/09

09:44:33 - Operator  
Recording:  
09:44:33 - New case  
Pokorney, Richard  
09:44:41 - Judge: McLaughlin, Michael R.  
Case called  
09:44:46 - State Attorney: Haws, Joshua  
Present

00014

09:44:55 - Public Defender: Odessey, Edward  
Present  
09:45:03 - Defendant: Pokorney, Richard  
Present in custody  
09:45:08 - Public Defender: Odessey, Edward  
Waives formal reading  
09:45:15 - Judge: McLaughlin, Michael R.  
Possible penalties  
09:45:53 - Public Defender: Odessey, Edward  
Requests 1 week  
09:46:00 - Judge: McLaughlin, Michael R.  
02/16/07 at 9:00 - bond argument and EOP  
09:46:37 - Judge: McLaughlin, Michael R.  
NCO still in effect  
09:47:15 - Operator  
Stop recording:

---

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

FILED 02 2007

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO

Plaintiff,

vs.

RICHARD D. POKORNEY

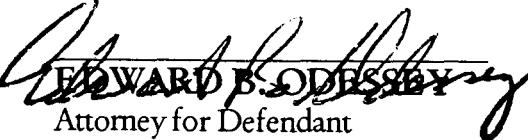
Defendant.

Criminal No. H0700182

MOTION FOR BOND REDUCTION

COMES NOW, The above named Defendant, by and through his Attorney of Record, the Ada County Public Defender's Office, **EDWARD B. ODESSEY**, handling attorney, and moves this Honorable Court for its Order reducing bond in the above entitled matter, upon the grounds and for the reason that the bond is so unreasonably high that the Defendant, who is an indigent person with no funds, cannot post such bond and that Defendant has thereby been effectively denied his right to bail.

DATED This Thursday, February 08, 2007

  
**EDWARD B. ODESSEY**  
Attorney for Defendant

MOTION FOR BOND REDUCTION

00016

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. H0700182.02
Plaintiff,	)	
	)	MOTION FOR GRAND JURY
vs.	)	TRANSCRIPT
	)	
RICHARD DAVID POKORNEY,	)	
	)	
Defendant.	)	
	)	

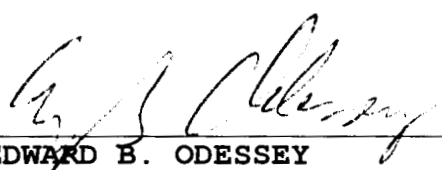
COMES NOW, RICHARD DAVID POKORNEY, the defendant above-named, by and through counsel EDWARD B. ODESSEY, Ada County Public Defender's Office, and moves this court to ORDER that a transcript of the grand jury proceedings in this case be prepared and provided to counsel for the defendant and the prosecuting attorney. This motion is made pursuant to the Fifth, Sixth, and Fourteenth Amendments of the United States


Constitution; Article I, section 13, of the Idaho Constitution;  
and Idaho Criminal Rules 6 and 7.

The defendant, being indigent, also requests that the  
transcript be prepared at the cost of the county, and as soon as  
possible.

Due date: March 12, 2007.

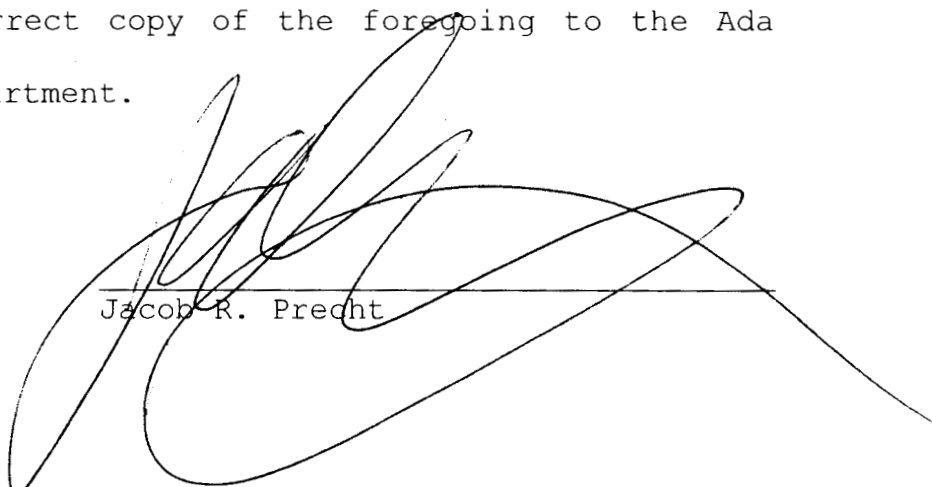
**DATED** February 12, 2007.

  
\_\_\_\_\_  
**EDWARD B. ODESSEY**  
**Attorney for Defendant**

x Received 4/18/07   
x FFA Alidji 4.20.07

**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY**, that on this 12 day of February 2007,  
I mailed a true and correct copy of the foregoing to the Ada  
County Transcription Department.

  
\_\_\_\_\_  
Jacob R. Predt

Session: McLaughlin021607

Division: DC

Courtroom: CR507

Session Date: 2007/02/16

Session Time: 08:28

Judge: McLaughlin, Michael R.

Reporter: Hohenleitner, Tammy

Clerk(s):

Hunt, Angela

State Attorneys:

Alidjani, Fafa

Dinger, Daniel

Haws, Joshua

Lorello, David

Owen, Patrick

Public Defender(s):

DeAngelo, Michael

Geddes, Anthony

Odessey, Edward

Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0008

Case Number: H0700182

Plaintiff:

Plaintiff Attorney:

Defendant: Pokorney, Richard

Co-Defendant(s):

Pers. Attorney:

State Attorney: Alidjani, Fafa

Public Defender: Odessey, Edward

2007/02/16

09:27:16 - Operator

Recording:

09:27:16 - New case

Pokorney, Richard

09:27:50 - Public Defender: Odessey, Edward

Stand silent



09:27:55 - Judge: McLaughlin, Michael R.  
NG plea entered  
09:28:01 - Public Defender: Odessey, Edward  
09:28:04 - Defendant: Pokorney, Richard  
Present in custody  
09:28:08 - State Attorney: Alidjani, Fafa  
Present  
09:28:15 - Judge: McLaughlin, Michael R.  
5d JT - 6/18/07 at 9; through 21st and 25; PTC 06/01/07 at 1  
0a; motn  
09:29:37 - Judge: McLaughlin, Michael R.  
05/18/07; disc 05/11/07  
09:30:03 - Public Defender: Odessey, Edward  
Bond motion w/drawn  
09:30:14 - Operator  
Stop recording:

---

FILED \_\_\_\_\_  
AM \_\_\_\_\_ 343

MAY 17 2007

J. EDWARD HAWKINS, CLERK  
CLERK OF DISTRICT COURT  
IDAHO

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Fafa Alidjani  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

189  
PT  
4-1  
1000

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. H0700182</b>
	)	
vs.	)	NOTICE OF INTENT TO INTRODUCE
	)	EVIDENCE PURSUANT TO IRE
RICHARD DAVID POKORNEY,	)	404(b) and
	)	STATE'S BRIEF IN SUPPORT
Defendant.	)	
	)	

COMES NOW, **Fafa Alidjani**, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and notifies the Court and Counsel of intent to use evidence of the Defendant's other wrongs or acts to establish or prove motive, intent, or absence of mistake or accident pursuant to I.R.E. 404(b) and I.C.R. 16 in the State's case in chief. The general nature of the evidence will include: a twelve page hand written letter from the defendant to his sixteen year-old **son** Ragner, discussing his prior sexual contact with a male **minor child** and his personal belief's about male with male

504

sexual contact, while the defendant was in custody at the Ada County Jail on the charges of Lewd Conduct involving his sons. See Exhibit A.

### THE EVIDENCE

The state seeks to introduce evidence regarding defendant's statements to Ragner Pokorney, defendant's sixteen (16) year-old son, and the only sibling out of five boys who has not disclosed sexual contact by his father. The state seeks to introduce in its case-in-chief, defendant's statements to his son Ragner contained within a twelve page (12) letter, which includes statements about his prior sexual contact with another male child and a discussion of his belief that sexual contact between males is a normal part of male development and does not cause any long lasting harm. For details of defendant's statement, please refer to State's Exhibit A.

### THE LAW

In considering whether evidence is inadmissible under I.R.E. 404, the court must determine whether the evidence is relevant to a material issue other than the character or propensity of the defendant. State v. Buzzard, 110 Idaho 800, 718 P.2d 1238, 1240 (Ct.App.1986). If a permissible purpose for the evidence is found, the court must exercise its discretion in weighing the probative value of the evidence against any unfair prejudicial impact to determine whether it should be admitted. I.R.E. 403; State v. Wood, 126 Idaho 241, 880 P.2d 771(Ct.App.1994).

While evidence of other crimes, wrongs or acts is not admissible to prove propensity to commit the crime charged, it may be admitted when it is relevant for other purposes such as proof of knowledge, identity, plan, preparation, opportunity, motive, intent, and the absence of mistake or accident. I.R.E. 404 (b). The afore-mentioned exceptions listed are

“representative of the types of uses for which evidence of other crimes may be admitted, but the exceptions are not exhaustive.” State v. Tolman, 121 Idaho 899, 903, 828 P.2d 1304 (1992), citing State v. Sharp, 101 Idaho 498, 616 P.2d 1034 (1980). “A substantial number of courts have adopted the rule that evidence of prior misconduct is admissible where it is relevant to the credibility of the parties.” State v. Moore, 120 Idaho 743, 745-46, 819 P.2d 1143 (1991). This has been held especially true in cases involving sex crimes.

The offense almost always occurs in private. The only direct witnesses are the prosecuting witness and the defendant. Although circumstantial evidence supplies occasion corroboration, conviction usually hinges upon the credibility of the prosecuting witness. In this kind of case beyond any other, the defendant’s plea of innocence challenges the credibility of the alleged victim. The challenge inheres in the very nature of the contest and usually demands an answer long before the prosecution’s turn for rebuttal. A minimal defense, even when the defendant elects not to testify, demands that the alleged victim be accused of falsehood, spite, or delusion.

Tolman, 121 Idaho at 904-05, citing People v. Covert, 249 Cal.App.2d 81, 88, 57 Cal.Rptr.220, 224-225 (1967).

Idaho courts have consistently held that “[e]vidence of similar acts of sexual misconduct between a defendant and the victim or between the defendant and another witness is admissible for corroboration of the victim’s testimony in sex crime cases.” State v. Schwartzmiller, 107 Idaho 89, 93, 685 P.2d 830, 834 (1984). Furthermore, defendant’s statements to his sixteen year old son, whom he appears to believe is one of the accusers, is one of indoctrination and attempt to normalize male with male sexual contact for which he was charged with at the time of writing the letter. The letter further sheds light on the complexity of defendant and his victim’s relationship and potentially the reason for the delayed disclosure by his victims.

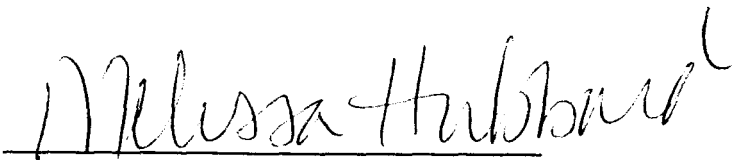
THEREFORE, the state respectfully asks that the court permit the admittance of evidence described above, under I.R.E. 403, 404(b), and the above-referenced case law.

DATED this 16<sup>th</sup> of May, 2007.

  
Fafa Alidjani

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 16<sup>th</sup> day of May, 2007, I delivered a copy of the foregoing STATE'S NOTICE AND BRIEF IN SUPPORT OF INTRODUCTION OF 404(B) EVIDENCE OF was furnished to: Edward Oddessey, Attorney for David Pokoreny, via the interdepartmental mail.

  
Melissa Hubbard

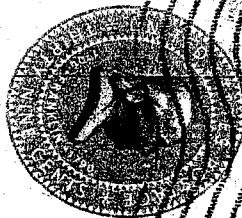
**EXHIBIT A**

**00025**

*Handwritten:* Rick Johnson  
Boise, ID 83704  
C/O Ada County Jail  
7210 Bantister Drive  
Boise, ID 83704

21 DEC 2006 PM 2 T

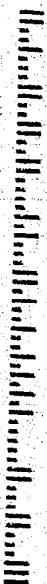
BOISE ID 837



*Handwritten:* Regener Johnson  
3215 W 1st St.  
Boise, ID

POK0215 837052020 19006 21 12/24/06  
NOTIFY SENDER OF NEW ADDRESS  
POKORNEY  
1311 CLEVELAND BLVD  
CALDWELL ID 83605-3659

83705+33



00026

15-04

(1)

"Don't ask me 'nothing 'bout nothing'  
I just might tell you the truth" B. Dylan

\* In these next pages I'm going play the Devil's Advocate  
the skeleton in the closet gets his power from being the

I remember sitting in the cab of my big real truck  
and telling this to Jason, so you may already have hear  
this in another distorted form. Chris and Jason had found a  
name on the Idaho sex-registry and so it came up in a  
conversation. Your mom and I never tried to hide this from  
the kids - especially Jason, altho his memory, confused and  
distorted by a growing mind, had me in prison for drive  
without a license, that is not what he was told. I rem-  
ber telling Jason about the charge and how easily I could  
get in trouble if I was further accused by, say, his drum  
friends.

Long before you were born, while high on hallucinogenic  
mushrooms and wine I let a teenager perform oral sex  
on me. He offered to do it if I let him drive my truck,  
while we were in the mountains in Montana. It wasn't  
one of my proudest moments but it certainly isn't the crime of  
the century neither. He mentioned it to his mom, who I knew,  
and later, when, ironically, I thwarted her advances, she  
told police. I probably could have beat the charge, but I  
told the truth. I was sentenced to a ridiculous 12 years  
all suspended. Altho I didn't go to prison directly for this  
charge (illegal sexual conduct), I was made to feel like the  
lowest person on earth and attend years of classroom  
treatment. I would later go to prison for violating my pro-  
bation, that is, not jumping when the government said jump, al-  
though it's a little more complicated than that and had a lot to  
do with crooked businessman and corrupt prosecutors.

It took me awhile to sort thru the false guilt that was  
heaped on me by those who stand to gain by making  
human behavior, mistaken or otherwise, serious crime. The  
miserable people, unscrupulous and unenlightened are  
numerous and I faltered somewhat, emotionally. 00027  
Schleppins for too long.



psychological ignorance. It took some time to regain my confidence and self-worth. But I did!

The charge of "illegal sexual conduct" is not a registerable charge for me in Montana - if I lived in Montana I wouldn't be registered. Because it did not involve force, it is not a crime in 95% of the countries in the world and, at the time of the charge, was not a punishable crime in some states, including Wyoming which borders Montana. (note that real crime, like say, forcible rape is a crime in all countries and all states.)

Spontaneous, opportunist sex acts between those of the same sex does nothing to change the long-term sexual orientation of those involved. According to Desmond Morris, author of numerous scientific books and a leading expert in zoology, anthropology, philosophy, and human behavior; over half of all males have indulged in homosexual behavior - sexual contact to the point of orgasm - by the age of forty. 12% of males have sexual contact with other animal species and 58% of females and 9% of males masturbate. Male lions masturbate - and no doubt would watch porn if they could. The average (not the lowest), age of sexual contact with other males is age 12. Like prostitution, none of these human sexual activities are harmful for the human species, and because they provide outlets for ~~the~~ human sexual tension, are indeed useful for the naked ape. There is nothing biologically unusual about male to male contact of pseudo-copulation and limited behavior does not have long-term sexual consequences - is a useful outlet - and typically disappears when a member of the opposite sex appears on the scene.

Desmond Morris *The Naked Ape*

★ My so-called "victim" harbours no damage and harbours no hate towards me (nor ~~he~~ towards him) - He lives in Boise and is happily married, altho if he weren't happy it certainly wouldn't be my fault.

There is big-time money in the sex-addiction, sex-abuse field, as well as in the exploding criminal-justice system - that's why it's everywhere.

Uncle Fred

Long before I meet your mom, I inadvertently discovered that Uncle Fred was having a sexual relationship with a guy - while he was married to Laura.

Fred had (at that time unknown to me) a long-standing hate for me because his first wife (I introduced them), during a fight with Fred while they were breaking up, had told him she had a sexual affair with me while he was in the service. She said it to hurt Fred when she was angry - it wasn't true - but truth be damned: it hurt.

Altho I never said anything to anyone about Fred's affair (and told Fred I wouldn't), Fred started attacking my credibility with ~~secret~~ secret preemptive rumors making me the doer of all sort of deviant and wicked things - most concerning sex. In this way, I guess, if I did say Fred was "homo," who'd believe me? There is an effort to get me to leave the area he started cheat me in business.

Years later, in Idaho, the same type of behavior from Fred started again. Devious, behind-your-back lies to family and co-workers of such a nature (i.e. Rick likes to flash little kids at the park) that no one would tell you what was being said.

I made one of your so-called friends, secretly mad at you, telling another friend (but only after he swore not to tell you) that you collect and view pictures of bestiality. Your friends start thinking you're weird and you don't have a clue why. That's Fred.

While we were moving from the trailer out to the Kuna house Fred found my prison paperwork and made a ~~big~~ big deal showing Eric, Mary, Greg, etc. in trying to raise himself up by putting me down. Once, because I suspected him of putting crank in Jason's pop when they were going fishing, I told him he had to stay away from my kid. His behavior got really weird. He destroyed his room at Greg's house, his furniture and all, and said that I attacked him (ask mom if you don't believe). At the Kuna house, tho he paid no rent, he took all the kitchen

cabinets off the wall, made secret passages around the basement, made a hole in the wall to watch neighbors, I caught him sniffing my underwear drawer. Once he got drunk and robbed his girlfriend's house, blaming me of course. He also told Greg that I stole (Greg's) his compressor. He's the one that 'molested' Robert when he was younger; I heard them talk about when they were drunk; they're friends now and all is apparently forgiven.

Lucky for me when Fred trashed his room I was at the hospital watching Wesley's birth - so everyone knew I didn't trash the room. Lucky for me, Fred's girlfriend came home while the robber was fleeing and identified the robber as Fred - not me. We found the guys that took the compressor - again not me.

The reason I'm telling you all this is to show you what fear of sexuality can do to people. After all this happened I told Fred to leave or I would beat him silly and burn up his precious truck. Whether he ran from his own behavior or from my wrath, he went as far as I crank took him and now finally, he's an openly gay guy and seems happy. All the lies and attempted cover-ups, all the ruin socially and otherwise, he caused me, all the opportunities he blew for himself - was mostly because he couldn't deal with his sexuality.

Now even his ex-wife Laura is out of the closet - she won the gold-metal at the Bay Area Gay games for bowls. All this misery and deceit caused by the way individuals and society views sex.

Uncle Greg - Linda Taylor

Did you know that Linda Taylor got in trouble in Washington for touching her kids - that the dysfunctional relationship between Uncle Greg and his son is rooted in sex-abuse?

For his part, Uncle Greg needs to give Gregory Jr. whatever he wants to make up for past wrongs, and Greg Jr. lets him and accepts the bribes because he feels he somehow deserves them and that Greg should have to pay. One big, terribly abusive, merry-go-round and two tragically wasted lives. Even if the sex-abuse didn't happen - the emotional abuse that traps them both is worse than many cases of long term sexual abuse.

Chuck Taylor got sexually involved with his step-daughter - he shouldn't have and that was wrong. Uncle Greg (still in an abusive relationship with his son) and Linda Taylor, still on probation for lewd conduct with very small children, are the ones that turned Chuck in - shouting the evils of his conduct and emphasizing what a evil and dispicable person he was. Of course they did it to make themselves feel better (at least I'm not sleeping with my step-daughter) and so they could openly engage in their sexual relationship once Linda's husband was out of way. So what happened with everyone once the son got involved? Well, Chuck got 12 years in prison - he should have got some counselling - and lost his real kids even though they weren't being abused. The kids lost their dad and mom and now are being raised by strangers in group homes that are known to produce dysfunctional kids. Misery loves company and Uncle Greg and Linda made each other comfortably miserable for about a year until she couldn't take Greg's secretly abusive way of life, and left to pine outside the prison gate in Washington - waiting for Chuck's release. Greg Sr. and Greg Jr.'s abusive relationship survived the temporary presence of a third party and remains intact. Nobody got any help and the kids are not better off. The government hurt us ever they could and helped nobody. It could and should have been handled differently, and making such statements doesn't make me any less angry at it. **00031**

The public-defender (he's sure not defending me) told me last week that some of my boys have said I sexually molested them. Is this why nobody's been talking to me for six-months? Who's accusing me, of doing what, they won't tell me. I have no idea!

But I know this Ragner: Bullshit! If you're one of the accusers, shame on you, and if mom somehow thinks this justifies the way she's been treating me - she is sorely mistaken. Is this why she won't bail me out or is this a new ploy to get my boys?

Habeas corpus is a fundamental - you have to tell someone what he's suspected of or being punished for - you mean to tell me mom has been denying me this for 6 months? Wow!

I don't know how mom can rationally believe me guilty of sexually abusing the kids. Of course, who says she's rational? I can't figure out who could be accusing me. Jason's too old and doesn't even live with us, the younger boys don't know enough about sex to make a lie work - and they wouldn't lie because they're not mad at me.

I know you're mad at me but I can't believe you would stoop so low or that anyone would believe you - you won't throw anything like sex abuse into my face everytime we got into an argument - hell, look what happens when I tried to give you a chore - the whole neighborhood would know if you were sexually abused.

Sexual abuse happens in strict "closed" type families - not families open like ours. You kids were encouraged to question me, ask questions, and talk about whatever you wanted.

Mom has been sexually abused - can't she just look at the boys and see they are not abused? Of course, want it to be true is another matter.

How convenient for mom that this comes up now. I can leave me and, at least legally, get the boys. She's already felt left-out because I spent so much time with them - she doesn't understand that I'm close to the boys because I listen, talk and play with them. 00032



go away won't help her get close to the boys. She needs to put down the plastic-kids and start listening, talking and playing with them herself.

But it's my fault I let your (mom's and mine) relationship deteriorate to the point that she was something like this - I should have left when I realized I couldn't wake her up - but I kept thinking (hoping I guess) that things would get better between us. I stayed for the kids, even tho I was silently dying.

Everything I've tried to teach your mom has apparently fell on deaf ears. I use to talk to her extensively, but got the feeling I was talking to myself so I quit - I should have kept trying or left, but I stayed around and slowly crumbled.

Your mom's parents killed her long ago and I ~~have~~ been trying to wake her up, but I layed next to her and started to die myself. I was too close; I should have insisted she see a professional... I failed her in that regard.

But no matter how much one wishes otherwise... not a 'bad' dad. The kids are not sexually or physically or emotionally abused by me or anyone else - I would know and they would tell me because I'm their dad and we're close. And, regardless of the spin you and mom try to put on it, regardless of how you wrap the terms in psycho-babble, you and mom are not physically abused and there's no history of domestic violence in our family. You can look at reality and lie about it but it doesn't change the facts or make you better in the long-run, and making yourself out to be a victim (wanting to be a victim when you're not) makes you small.

I can do nothing but pity your mom and hope somehow she finds some inner peace. She didn't really learn the important lessons but she has grown some. She should know me alot better than she does - I guess she was sleeping in class.

Your mom has abandoned everything that's important to me - all the moral and psychological lessons appear not to have took hole in your moms soul.

She's suppose to know how to identify the irrational parent and get out of it - but like her mom, she's stuck right there - wanting to punish, unforgiving - if she could just get into the adult!

When the police came she should have ran outside and told them that she attacked me and if anyone were to jail it should ~~have~~ be her. The police should have told you to quit being so dramatic, to do what your dad say and told Linda to quit hitting me. You know that - mom knows that, but doing the right thing is sometimes hard. Still, it's what makes real self-esteem.

Your mom's not acting morally at all - using the government to hurt me (my spouse?), initiating force against me; trying to make it so I can't talk to my kids; trying to get me (me!) to take anger classes after she loss control of her anger. She should speak the truth and tell everyone that I controlled myself very well when she attacked me and didn't resort to excessive force and that she, not ~~she~~, needs anger classes... but doing the right thing is sometimes hard... still, it's what makes real self-esteem.

Your mom didn't just abandon me - she abandon everything I value. She's stuck in her teens somewhere - what's her favorite song, music, car, food, drink, dress, poem, book?

She's trying to force the custody thing thru the courts where I'm in here so I can't dispute it - real morally and fair to her. Doesn't she realize that she's hurting the young boy?

The court papers say I've got to pay for you but I ~~get~~ don't get to talk to you - a pay but no say kind of thing. I'll pay - my pleasure but it's too bad mom allowed the government to put such power in such small hands.

Even if I were guilty of some kind of ~~sexually~~ sex thing with the kids - why would your mom call the police and try to get me into legal trouble? To hurt me? Do you think I would try to hurt mom if she molested the boys? Do you think I would throw you away if you 'molested' a girl at a beer party? Of course not! I love you Ragnar - if you or mom made a mistake why would I want to make it worst? I would try to help - to prevent more mistakes - to guide you in the right direction - but I wouldn't want to kill you. I don't just love you when you're the perfect, flawless, correct behaving son; I love you thick and thin, good and bad, rain or shine, you know 'all that stuff'.

Every male in the United States is a 'sex-offender' and you or Jason should know how easy it could happen to you - that you could be on the register. The growth in 'sex-crimes' is the result of the explosive treatment industry. It's all about money - whether it's for prison or treatment, somebody gets paid for other people's mistakes. They love and encourage families to call and report each other, their friends, etc. It keeps them in the money and us poor - protecting nothing except their jobs.

0

number of times I had sex with a relative  
number of times I had sex with an animal  
number of times your Grandpa John got counselling for his problem

1

number of people I slept with in your lifetime (your mom)

25+

number of times your Uncle Greg sexually assaulted his son  
number of years Uncle Greg has been emotionally abusive  
number of books I read on raising kids and his son parenting and related topics.



(6)

I won't bother you with more letters after this. You need guidance Ragnar - don't let your talent die. Mom and Jason are not the right kind of people to motivate you - you need dreamers, someone who will push you to succeed.

Regardless of how it sounds in parts of the letters I write - I don't want anything bad to happen to mom or anyone else. I don't like what she's doing but I'm not going to physically hurt her.

I can't fight mom's court papers from in here (because I can't) even tho there're ridiculous. It's too bad she made it like that. After I 'equip and ammo up,' as the saying goes - I'll fix all that.

Sometimes individuals, like political dictators, avenge themselves on innocents for a wrong committed only in their minds, and consider themselves stronger because they have created victims. ~~Rick Johnson~~

I love you very much and remain  
your biggest fan  
Love Dad

P.S. Merry Christmas, hope you enjoy the holidays

P.S.S. Of course I'm very lonely and miss all of you guys very much.

I'm sorry for all the mistakes I made - I read books and stuff and tried to do what I thought was right. I knew it didn't always seem that way to you and mom. Where you start from and the tools you have make a difference. Mom didn't have a lot of tools - my dad never talked to boys and would have never been able to write a letter like this. Love Dad.

00036

If you could - please tell the young boys that  
I'm doing alright and wish them a very  
merry Christmas.

Thank You

The thing that hurts me the most is the  
utter lack of compassion... even worse than the  
lack of loyalty... I can't grasp this lack of com-  
passion coming from my family. I simply don't get  
Where's the love?

They say that you can't love another person if you  
don't love yourself and I guess that's true with re-  
gards to your mom... even that only explains a little  
bit... how can she not like me... even a little...  
that's what I don't get... the utter lack of com-  
passion... how was I with her?

I thought if I watered the flower it would grow but  
then I ran out of water; it turned into a sticker  
bush and hurt me.

P444 On the lighter side (literally) I'm alot thinner now  
and I hope to get down to my ideal weight by the ea-  
spring. I'm going to enter the literary scene in Boise and  
start the 'Center', etc. I'm going to start my life, that is, if  
I ever get out of here. I'm writing some really good  
stuff now. My self-worth is intact - it wasn't me I  
disliked lately, it was what I was becoming - it was the  
situation that was bad - not the person. I feel really good  
about my ability and chances of success. It really hurt  
when you guys returned my letter - and left me nowhere to  
6 number of books I hope to publish before I'm 60  
It may be easier when I'm not there - and if that so I'm  
glad for you - I sincerely hope it's not a Primrose path your going

415

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Case No. H0700182
Plaintiff,	)	
	)	MOTION TO EXCLUDE EVIDENCE
vs.	)	
	)	
RICHARD DAVID POKORNEY,	)	
	)	
Defendant.	)	
	)	

COMES NOW, RICHARD DAVID POKORNEY, the defendant above-named, by and through counsel EDWARD B. ODESSEY, Ada County Public Defender's Office, and moves this Court pursuant to ICR 16(e)(2) for its ORDER excluding the following items, as they were not produced in conformity with the court's scheduling order:

RC

- 1) Statements of the defendant "as reflected in letters sent from [the] defendant to family from [the Ada County Jail]."¹
- 2) Statements of the defendant "as reflected in audio/video recorded contact with police."²
- 3) "Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing 2 items to include '17 letters from Pokorney to Son' - by officer Sexton."³
- 4) "Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing two items to include '10 letters W. Pokorney' - by officer Sexton."⁴
- 5) "Ada County Dispatch 911 recorded call and related dispatch logs DR# 629-345."⁵
- 6) "Ada County Dispatch 911 recorded call and related dispatch logs DR# 6239-330."⁶
- 7) "Ada County Dispatch 911 recorded call and related dispatch logs DR# 622-487."⁷
- 8) "Letters (and envelope) from defendant to R. Pokorney (numbered pages 70-84)."⁸
- 9) "CARES St. Lukes medical records for W. Pokorney - 39 pages."⁹
- 10) "Audio recording of physical exam and DVD recording of interview of W. Pokorney - 1 cassette tape and 1 DVD."¹⁰

---

¹ *State's Response to Discovery*, at 2, ¶ (1)(c).

² *State's Response to Discovery*, at 2, ¶ (1)(e).

³ *State's Response to Discovery*, at 3, ¶ (4)(A)(8).

⁴ *State's Response to Discovery*, at 3, ¶ (4)(A)(9).

⁵ *State's Response to Discovery*, at 3, ¶ (4)(A)(14).

⁶ *State's Response to Discovery*, at 4, ¶ (4)(A)(15).

⁷ *State's Response to Discovery*, at 4, ¶ (4)(A)(16).

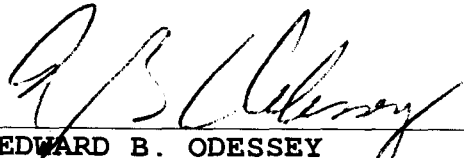
⁸ *State's Response to Discovery*, at 4, ¶ (4)(A)(19).

⁹ *State's Response to Discovery*, at 4, ¶ (4)(A)(20).

¹⁰ *State's Response to Discovery*, at 4, ¶ (4)(A)(21).

- 11) "CARES St. Lukes medical records for J. Pokorney - 33 pages."<sup>11</sup>
- 12) "Audio recording of physical exam and DVD recording of interview of J. Pokorney - 1 cassette tape and 1 DVD."<sup>12</sup>
- 13) "CARES St. Lukes medical records for R. Pokorney - 33 pages."<sup>13</sup>
- 14) "Audio recording of physical exam and DVD recording of interview of R. Pokorney - 1 cassette tape and 1 DVD."<sup>14</sup>
- 15) "Curriculum Vitae for Expert Witness Mydel Yeager."<sup>15</sup>
- 16) "Medical records for W., J., and R. Pokorney, CARES St. Lukes."<sup>16</sup>

DATED, this 21<sup>st</sup> day of May 2007.

  
EDWARD B. ODESSEY  
Attorney for Defendant

---

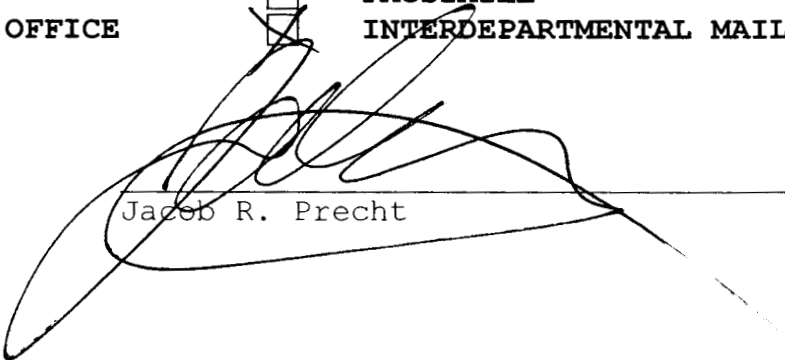
<sup>11</sup> State's Response to Discovery, at 4, ¶ (4) (A) (22).  
<sup>12</sup> State's Response to Discovery, at 4, ¶ (4) (A) (23).  
<sup>13</sup> State's Response to Discovery, at 4, ¶ (4) (A) (24).  
<sup>14</sup> State's Response to Discovery, at 4, ¶ (4) (A) (25).  
<sup>15</sup> State's Response to Discovery, at 4, ¶ (4) (A) (26).  
<sup>16</sup> State's Response to Discovery, at 4, ¶ (4) (B) (a).

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 21<sup>st</sup> day of May 2007, I  
mailed a true and correct copy of the foregoing to:

FAFA ALIDJANI  
DEPUTY PROSECUTOR  
ATTORNEY FOR PLAINTIFF  
ADA COUNTY PROSECUTOR'S OFFICE

<input type="checkbox"/>	U.S. MAIL
<input type="checkbox"/>	HAND DELIVERED
<input type="checkbox"/>	FACSIMILE
<input checked="" type="checkbox"/>	INTERDEPARTMENTAL MAIL

  
\_\_\_\_\_  
Jacob R. Precht

FILED  
A.M. P.M.

MAY 29 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 366  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
RICHARD DAVID POKORNEY, )  
)  
Defendant, )  
)  
\_\_\_\_\_ )

**Case No. H0700182**

**STATE'S OBJECTION AND  
RESPONSE TO  
DEFENDANT'S MOTION TO  
EXCLUDE EVIDENCE**

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney, in and for Ada County, State of Idaho, and lodges an objection to defendant's motion to exclude evidence filed in the above named matter. The defendant's motion is frivolous and factually misleading.

**OBJECTION TO DEFENDANT'S MOTION TO EXCLUDE EVIDENCE  
(POKORNEY), Page 1**

00042

### **PROCEDURAL HISTORY:**

The scheduling order in the above-entitled matter was issued on February 23<sup>rd</sup>, 2007. Subsection 4 of the said order states:

**DISCOVERY CUT-OFF:** All discovery pursuant to I.C.R. Rule 15 and Rule 16 shall be completed by **May 11, 2007**. Counsel for the parties shall have disclosed to each other in writing the following information:

**The list of all witnesses, along with their addresses and phone numbers which each side intends to call for their case must also be disclosed at this time. This order does not apply to rebuttal witnesses for the state.**

Idaho Criminal Rule 15 instructs the parties to a litigation as to issues involved in taking of depositions. There have been no depositions scheduled or conducted in this case and thus compliance with I.C.R. 15 is not a matter at issue.

Idaho Criminal Rule 16 "Discovery and inspection" governs the process by which discovery must be conducted in a criminal matter. Per I.C.R. 16(a) and (b), the state began the process of disclosing material and information within the prosecutor's possession and control, or which thereafter came to the prosecutor's possession and control, in the following manner:

1. On **January 22nd, 2007**, the state hand delivered copies of police reports and an NCIC report (pages numbered consecutively as 1-48), one Ada County Dispatch audiotope for DR# 629-330 (the instant offense), and two recordings of law enforcement contact via two CDs as related to the instant offense. See Exhibit A and B.
2. On **February 23<sup>rd</sup>, 2007**, per defense counsel's request for "un-redacted discovery," after an agreement regarding confidential and sensitive treatment of previously redacted material (See Exhibit C), an un-redacted set of documents previously disclosed, as well as additional material that had come to state's possession were provided to Mr. Edward Odessey via hand delivery.

**OBJECTION TO DEFENDANT'S MOTION TO EXCLUDE EVIDENCE (POKORNEY), Page 2**

**00043**



Those materials were the previously disclosed pages 1-48, and new material consecutively numbered pages 49-84. See Exhibit C, D, and E.

3. On **Friday May 11, 2007**, via a formal response to discovery, the state disclosed all materials mentioned above, in addition to all other material which had since come to its possession in compliance with the February 23<sup>rd</sup>, 2007, Scheduling Order issued by the Court, and the Idaho Criminal Rule 16(a), 16(b), 16(e)(C)(3), and 16(i). See Exhibit F and G.
4. The state's formal discovery response was hand delivered to Mr. Odessey's office on **Friday May 11, 2007**.
5. On **Wednesday May 16, 2007**, copies of the additional material which had already been identified in the state's formal discovery response, were hand delivered to Mr. Odessey's office. Although ICR 16 only requires that the prosecutor "permit the defendant to inspect and copy or photograph" the evidence in state's possession, per Ada County prosecutor's general policy to assist the defense bar in this process, actual copies of all material were created and delivered to the office of the Public Defender. This material consisted of the CARES medical reports for the four named victims in the above entitled case (pages 87-195), and the DVD of the children's interviews and audio of their physical examination at CARES. The redaction process<sup>1</sup> and copying of the records, as well as the copying of the five audiotapes and three DVDs were time consuming and caused a delay in their delivery until Wednesday May 16, 2007. See Exhibits H & I.
6. In the afternoon of **Thursday May 17, 2007**, the prosecutor's office received additional police reports from Flathead County, Montana, which identified the child victim of defendant's 1984 sex abuse case. To this date, the victim was only identified as "John Doe" on all documents related to the prior offense and his real identity was unknown to the Ada County

---

<sup>1</sup> To delete non-exculpatory and confidential information regarding the victims.

Prosecutor's office. On Tuesday May 22<sup>nd</sup>, 2007, the handling Ada County deputy prosecuting attorney was notified of this fact and a second addendum discovery response with copies of the Flathead County police reports (pages 196-209) were hand delivered to Mr. Odessey's office. See Exhibit J.

### **DEFENDANT'S MOTION TO EXCLUDE SPECIFIC EVIDENCE**

In his motion, the defendant alleges specific items should be excluded "as they were not produced in conformity to the court's scheduling order." The state disagrees and provides the following facts in response:

1. "Statements of the defendant "as reflected in letters sent from the defendant to family from the Ada County Jail." -  
**Boise City Police Reports (DR# 629-345 re: Violation of No Contact Order case no. M0612897) consecutively numbered as pages 22-30, disclosed on 1-22-07 via hand delivery. These same materials were again disclosed via "un-redacted" copies on 2-22-07. Additionally, a copy of the twelve-page letter from the defendant to Ragner P. (identified as pages 70-84) was hand delivered on January 22, 2007. On May 11, 2007, these same materials were again disclosed in state's formal discovery response in conformity to I.C.R. 16.**
2. "Statements of the defendant "as reflected in audio / video recorded contact with the police." -  
**The defendant invoked his 6<sup>th</sup> amendment right in re: the allegations of sexual abuse in this case and therefore, there are no statements by the defendant. In re: charges of domestic violence and violation of no contact order which preceded the filing of this case, copies of 2 CDs which contained audio recorded contact by the police was provided on 1-22-07 via hand delivery.**
3. " Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing two items to include '17 letters from Pokorney to son' - by officer Sexton."  
**The aforementioned property invoice (numbered as page 29) was disclosed on 1-22-07, via hand delivery and again on May 11, 2007. These materials relate to the violation of no contact order case M0612897, to which the defendant plead guilty on 2-20-2007.**
4. " Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing two items to include '10 letters to W. Pokorney' - by officer Sexton."

The aforementioned property invoice (numbered as page 30) was disclosed on 1-22-07, via hand delivery and again on May 11, 2007. These materials relate to the case of violation of no contact order M0612897, to which the defendant plead guilty on 2-20-2007.

5. Ada County Dispatch 911 recorded call and related dispatch logs DR# 629-345."

This item relates to the violation of no contact order case M0612879 and it was disclosed and identified on state's formal response to discovery on Friday May 11, 2007. A copy of the audio recording was hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.

6. "Ada County Dispatch 911 recorded call and related dispatch logs DR# 639-330."

This item is the dispatch call for the underlying offense in this case. The existence of, and an actual copy of this audio cassette was disclosed to Mr. Odessey's office on 1-22-07 via hand delivery. This items was again disclosed in formal discovery filed on May 11, 2007.

7. " Ada County Dispatch 911 recorded call and related dispatch logs DR# 622-487."

This item is the dispatch call related to the domestic violence case # M0609264 which is scheduled for trial on August 28, 2007. This item was disclosed on May 11, 2007 in state's formal response to discovery, and a copy of this call was hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.

8. "Letters (and envelope) from defendant to R. Pokorney (numbered pages 70-84)."

On 2-22-2007, the state hand delivered this item to Mr. Odessey's office. This item was again disclosed in state's formal discovery response on May 11, 2007.

9. "CARES St. Lukes medical records for W. Pokorney - 39 pages"

This item was disclosed in state's formal response to discovery on May 11, 2007. After appropriate redaction of confidential information, copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.

10. "Audio recording of physical exam and DVD recording of interview of W. Pokorney - 1 cassette tape and 1 DVD"

This item was disclosed in state's formal response to discovery on May 11, 2007. After copies were created of the DVD and cassette, the copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.

11. "CARES St. Lukes medical records for J. Pokoreny - 33 pages"

**This item was disclosed in state's formal response to discovery on May 11, 2007. After appropriate redaction of confidential information, copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.**

12. "Audio recording of physical exam and DVD recording of interview of J. Pokorney - 1 cassette tape and 1 DVD"

**This item was disclosed in state's formal response to discovery on May 11, 2007. After copies were created of the DVD and cassette, the copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.**

13. "CARES St. Lukes medical records for R. Pokorney - 33 pages"

**This item was disclosed in state's formal response to discovery on May 11, 2007. After appropriate redaction of confidential information, copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.**

14. "Audio recording of physical exam and DVD recording of interview of R. Pokorney - 1 cassette tape and 1 DVD"

**This item was disclosed in state's formal response to discovery on May 11, 2007. After copies were created of the DVD and cassette, the copies were hand delivered to Mr. Odessey's office on Wednesday May 16, 2007.**

15. "Curriculum Vitae for Expert Witness Mydel Yeager"

**This item was disclosed in state's formal discovery response on May 11, 2007. A photocopy of this item was hand delivered on Wednesday May 16, 2007 to Mr. Odessey's office.**


16. "Medical records for W., J. and R. Pokorney, CARES St. Lukes"

**These items are the same items already addressed in #s 9, 11, and 13 above.**

**THEREFORE, the State respectfully requests that defendant's motion be DENIED.**

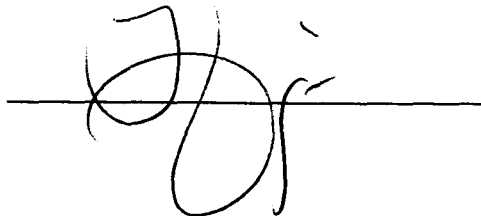
RESPECTFULLY SUBMITTED this 29 day of May, 2007.

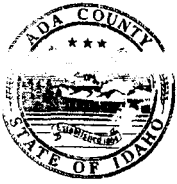
**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
Fafa Alidjani  
Deputy Prosecuting Attorney

**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY** that on this 29<sup>th</sup> day of May 2007, I provided a true and correct copy of the foregoing **OBJECTION TO DEFENDANT'S MOTION TO EXCLUDE EVIDENCE** to: **Ed Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, Attorney for the Defendant, by depositing the same in the Ada County Public Defender's bin.





ADA COUNTY  
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191  
Boise, Idaho 83702

CRIMINAL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7709

CIVIL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7719

January 19, 2007

Ada County Public Defender  
200 W. Front Street, Room 1107  
Boise, Idaho 83702

RE: State vs. RICHARD DAVID POKORNEY  
Case No. M0700520

In response to your request for discovery, enclosed you will find copies of Police Reports, NCIC, 911 Audiotape and Dispatch Log, and 2 CD's of Officer Audio in regard to the above referenced case. Pages 1-48.

**Audio recordings, videotapes and/or photographs may exist and if so, will be made available for review by counsel upon appointment.**

We have deleted home addresses and telephone numbers from the police reports that may go to the defendant. This has been done for the security of the individuals involved. We will provide them to counsel only if requested.

Following is a list of witnesses:

1. Sgt. Johnson, Boise City Police Department
2. Officer Kendall, Boise City Police Department
3. Officer Linn, Boise City Police Department
4. Det. Reiber, Boise City Police Department
5. Officer Sexton, Boise City Police Department
6. Officer Smith, Boise City Police Department
7. Lt. Scown, Ada County Sheriff's Office
8. Danielle Tueber, c/o Boise City Police Department
9. Jason Gohn, c/o Ada County Prosecutor's Office
10. Jarek, c/o Ada County Prosecutor's Office
11. Randson, c/o Ada County Prosecutor's Office
12. Wesley, c/o Ada County Prosecutor's Office
13. Margi Farmer, RN, c/o Ada County Prosecutor's Office
14. Linda Gohn, c/o Ada County Prosecutor's Office
15. Alisa Ortega, c/o Ada County Prosecutor's Office
16. Ranger, c/o Ada County Prosecutor's Office

STATE'S  
EXHIBIT

A

00019

If you have any further questions, please call.

Sincerely,

**GREG H. BOWER**

Ada County Prosecuting Attorney

By: Fafa Alidjani  
Deputy Prosecuting Attorney

GHB:FA:mh

Enclosures



ADA COUNTY  
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191  
Boise, Idaho 83702

CRIMINAL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7709

CIVIL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7719

CERTIFICATE OF RECEIPT

CASE NO.: MO 700520

DEFENDANT: Richard David Pokorney

AUDIO/VIDEO: 2-CD (audio) 1- Audio Tape

DISCOVERY PAGES: DISCOVERY - PAGES 1-48

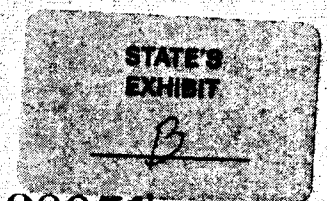
PREPARED FOR: ACPD

PREPARED BY: FAFA ALIDJANI

I CERTIFY THAT I RECEIVED THE ABOVE REFERENCED  
DOCUMENTS

DATE: 1-22-07 SIGNATURE: [Signature]

Melissa Hubbard  
Ada County Prosecutor's Office  
Felony Division



00051



**GREG H. BOWER**

Ada County Prosecuting Attorney

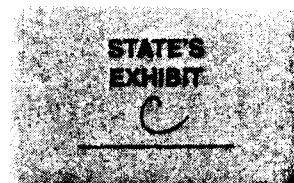
**Fafa Alidjani**

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

**Case No. H0700182**

**STIPULATION TO PROTECT  
UNREDACTED DOCUMENTS**

**COMES NOW**, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, and Edward Odessy, Attorney for Defendant, stipulate and agree that the un-redacted copies of the discovery documents attached and identified as pages # 1-84 which contain confidential information previously redacted, will not be disseminated to the defendant, his friends or family, or anyone else, except the handling defense attorney, the investigators with the public defender's office or other staff members with the public defenders office who will be assisting in the preparation of defense in this case.

**STIPULATION TO PROTECT UNREDACTED DOCUMENTS (POKORNEY),**

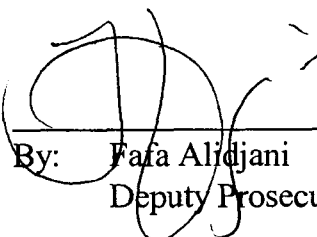
Page 1

00052

DATED this 22 day of February, 2007.

**GREG H. BOWER**

Ada County Prosecuting Attorney



By: Fafa Alidjani  
Deputy Prosecuting Attorney



Ed Odessy  
Attorney for Defendant



CRIMINAL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7709

CIVIL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7719

ADA COUNTY  
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191  
Boise, Idaho 83702

February 22, 2007

Ed Odessy  
Ada County Deputy Public Defender  
200 W. Front Street, Room 1107  
Boise, Idaho 83702

RE: State vs. RICHARD DAVID POKORNEY  
Case No. M0700520/H0700182

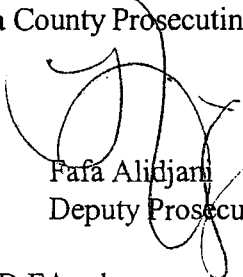
In response to your request for discovery, enclosed you will find copies of Booking Sheets, No Contact Order Case No. M0700520, No Contact Order Case No. M0612897, Judgment of Conviction on Case No. DC-85-020, Letter from the Defendant to Ragner Pokorney Post Marked 12/21/2006, Letter from the Defendant to Randson Pokrney Post Marked 12/2/2006, Letter from the Defendant to Ragner Pokorney Post Marked 12/21/2006, in regard to the above referenced case. Pages 49-84.

In addition, also included is my response to your request for un-redacted discovery. Enclosed you will find un-redacted copies of police reports and CARES records per I.R.E. 16 guidelines. (Pages 1-48). These documents contain confidential information previously redacted and are provided based on your agreement and understanding that these documents will not be disseminated to the defendant, his friends or family, or anyone else, except the handling defense attorney, the investigators with the public defender's office or other staff members with the public defenders office who will be assisting in the preparation of defense in this case

If you have any further questions, please call.

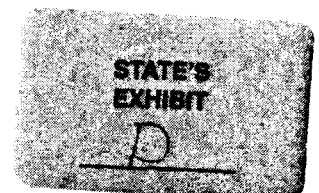
Sincerely,

**GREG H. BOWER**  
Ada County Prosecuting Attorney

By:   
Fafa Alidjani  
Deputy Prosecuting Attorney

GHB:FA:rmh  
Enclosures

cc COPY



00054

**COPY**

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. H0700182
	)	
vs.	)	STATE'S RESPONSE TO
	)	DEFENDANT'S REQUEST
RICHARD DAVID POKORNEY,	)	FOR UN-REDACTED
	)	DISCOVERY
Defendant.	)	
_____	)	

**COMES NOW**, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and makes the following Response to Defendant's Request for Un-redacted Discovery:

1. Unredacted copies of police reports and CARES records per I.R.E. 16 guidelines, will be sent to counsel under separate cover with a stipulation to disseminate originally redacted information only to individuals with the public defenders office assisting in preparation of this case.

STATE'S  
EXHIBIT

E


DATED this 23 day of February 2007.

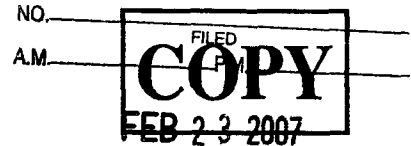
**GREG H. BOWER**  
Ada County Prosecuting Attorney

By:   
Fafa Alidjari  
Deputy Prosecuting Attorney

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that I provided a true and correct copy of the foregoing  
to: Ed Odessy, Ada County Deputy Public Defender, 200 W. Front St., Ste. 1107,  
Boise, ID 83702 by depositing the same in the Ada County Public Defender's bin this 23<sup>rd</sup>  
23<sup>rd</sup> day of February 2007.

  
Melissa Hubbard



**GREG H. BOWER**  
Ada County Prosecuting Attorney

J. DAVID NAVARRO, Clerk  
By S. RILEY  
DEPUTY

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

**RECEIVED**

**FEB 28 2007**

PROSECUTING ATTORNEY'S OFFICE  
ADA COUNTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
RICHARD DAVID POKORNEY, )  
)  
Defendant, )  
)  
\_\_\_\_\_ )

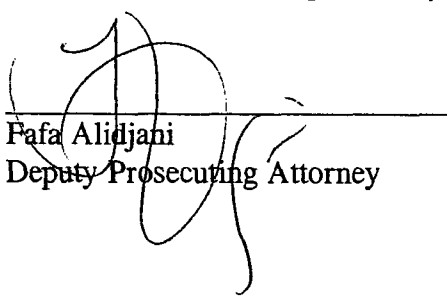
**Case No. H0700182**

**STATE'S RESPONSE TO  
DEFENDANT'S REQUEST FOR  
UN-REDACTED DISCOVERY  
TO COURT**

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Un-Redacted Discovery.

RESPECTFULLY SUBMITTED this 23 day of February 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Fafa Alidjani  
Deputy Prosecuting Attorney

**COPY**

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Fafa Alidjani**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

Fax: (208) 287-7709

STATE'S  
EXHIBIT

F

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

Case No. H0700182

**RESPONSE TO DISCOVERY**

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and makes the following Response to Discovery pursuant to Rule 16:

**16-A Brady-Agurs Disclosure:** The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the

alternative, the prosecution offers to defense counsel an open file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

**16-B Stipulation - Request Disclosure:**

Statement of Defendant: The known statements of the Defendant are contained in documents and information identified in subparagraph (4) of this Response to Discovery; which may include the following:

- a. as reflected in the Ada County Jail booking sheet
- b. as reflected in police reports
- c. as reflected in letters sent from defendant to family from ACJ
- d. as reflected in the grand jury transcript
- e. as reflected in audio / video recorded contact with police
- f. as reflected in prior judgment of conviction and related documents from Montana case no. DC-85-020B

Additionally, the prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the preliminary hearing proceedings, or any subsequent court proceedings in this case.

The prosecution is unaware of any grand jury proceedings in this case and any recorded testimony as a result thereof.

**(2) Statement of Co-Defendant:**

**(3) Defendant's Prior Record:** The Defendant's prior record is as identified in subparagraph (4) of this Response to Discovery, including but not limited to parts 4(A)(1), 4(A)(2), 4(A)(3), 4(A)(4), and 4(A)(5) of this Response and as disclosed in the following:

- a. NCIC report
- b. Judgment of conviction and related documents from the state of Montana case no. 16-228 / DC-85-020B (Deviate Sexual Conduct with a 12 yr old male)



(4) Documents and Tangible Objects: Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

A. Any and all tangible physical evidence or photographs or reproductions thereof identified in the following documents:

1. Ada Co. Jail booking sheet
2. ACJ Booking / Arrest Sheet
3. NCIC report
4. Boise Police Department Lewd Conduct report DR# 639-330 by B. Smith – two pages
5. BPD Narrative Report DR# 639330 by B. Smith – four pages
6. BPD Violation of No Contact Order report DR# 629-345 by officer Sexton– five pages
7. No Contact Order case no. M0609264 dated July 17, 2006
8. Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing 2 items to include “17 letters from Pokorney to Son” – by officer Sexton
9. Ada County Sheriff Boise Police Property Invoice DR# 629-345, listing two items to include “10 letters Wesley Pokorney” – by officer Sexton.
10. All items listed in the above property invoices
11. BPD Domestic Violence General and Narrative Report DR# 622-487 – by Officer A. Linn – four pages.
12. Ada County Sheriff Boise Police Property Invoice DR# 639-330 listing one item, a computer tower.
13. No Contact Order case no. M0700520 dated January 12, 2007.
14. Ada County Dispatch 911 recorded call and related dispatch logs DR# 629-345

15. Ada County Dispatch 911 recorded call and related dispatch logs  
DR# 6239-330
16. Ada County Dispatch 911 recorded call and related dispatch logs  
DR# 622-487
17. Audio recording of LE contact in re: DR# 629-345 by officer  
Sexton – 1 CD
18. Audio recording of LE contact in re: DR# 622-487 by officer Linn  
– 1 CD
19. Letters (and envelope) from defendant to Ragner Pokorney  
(numbered pages 70-84).
20. CARES St. Lukes medical records for Wesley Pokorney – 39  
pages
21. Audio recording of physical exam and DVD recording of interview  
of Wesley Pokorney – 1 cassette tape and 1 DVD
22. CARES St. Lukes medical records for Jarek Pokoreny – 33 pages
23. Audio recording of physical exam and DVD recording of interview  
of Jarek Pokorney – 1 cassette tape and 1 DVD
24. CARES St. Lukes medical records for Randson Pokorney – 33  
pages
25. Audio recording of physical exam and DVD recording of interview  
of Randson Pokorney – 1 cassette tape and 1 DVD
26. Curriculum Vitae for Expert Witness Mydel Yeager

B. Any maps, charts, diagrams or photographs, which the State may produce for demonstrative purposes.

(5) Reports of Examinations and Tests:

- a. Medical records for Wesley, Jarek and Randson Pokorney, CARES  
St. Lukes

(6) Witnesses:


- a. Margi Farmer - CARES St. Lukes
- b. Linda Gohn - address previously disclosed under separate cover
- c. Jason Gohn - address previously disclosed under separate cover
- d. Alisa Ortega - CARES St. Lukes
- e. Ragner Pokorney - address previously disclosed under separate cover
- f. Wesley Pokorney - address previously disclosed under separate cover
- g. Jarek Pokoreny - address previously disclosed under separate cover
- h. Randson Pokoreny - address previously disclosed under separate cover
- i. Mydel Yeager - Expert witness re: delayed disclosure of childhood sexual abuse
- j. Sgt. Dave Johnson - BPD
- k. Justin Kendall - BPD
- l. Bill Smith - BPD
- m. Andrew Linn - BPD
- n. Lee Reiber - BPD
- o. Linda Scown - ACSO
- p. Greg Sexton - BPD
- q. Deb Shaw - Ada County Dispatcher
- r. Larry Hunter - Ada County Dispatcher
- s. Lorene Menges - Ada County Dispatcher

(7) Police Reports and Witness Statements: N/A

DATED this 11 day of May 2006.

**GREG H. BOWER**

Ada County Prosecuting Attorney

  
By: Fafa Alidjani  
Deputy Prosecuting Attorney

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 17<sup>th</sup> day of May 2007, I provided a true and correct copy of the foregoing Response to Discovery to: **Ed Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702,** Attorney for the Defendant, by depositing the same in the Ada County Public Defender's bin.

Melissa Hubbard



ADA COUNTY  
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191  
Boise, Idaho 83702

CRIMINAL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7709

CIVIL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7719

CERTIFICATE OF RECEIPT

CASE NO.:

HO700182

DEFENDANT:

Richard Pokorney

AUDIO/VIDEO:

DISCOVERY PAGES:

DISCOVERY - PAGES

Request & Response to Discovery

PREPARED FOR:

Ed Odessy, ALRO

PREPARED BY:

FAFA ALIDJANI

I CERTIFY THAT I RECEIVED THE ABOVE REFERENCED  
DOCUMENTS

DATE:

5/11/07

SIGNATURE:

[Signature]

Melissa Hubbard  
Ada County Prosecutor's Office  
Felony Division

STATE'S  
EXHIBIT

9

00064



ADA COUNTY  
PROSECUTING ATTORNEY

GREG H. BOWER

200 W. Front Street, Rm 3191  
Boise, Idaho 83702

CRIMINAL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7709

CIVIL  
DIVISION

Phone (208) 287-7700  
Fax (208) 287-7719

CERTIFICATE OF RECEIPT

CASE NO.:

HO700182

DEFENDANT:

Richard David Pokorney

AUDIO/VIDEO:

3-DVDs & 5-Audios

DISCOVERY PAGES:

DISCOVERY - PAGES

CARS

Add. to Discovery (pgs 89-95)

PREPARED FOR:

Ed Odessy, ACPO

PREPARED BY:

FAFA ALIDJANI

I CERTIFY THAT I RECEIVED THE ABOVE REFERENCED  
DOCUMENTS

DATE:

5/16/7

SIGNATURE:

[Signature]

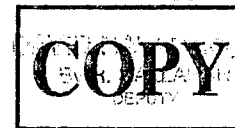
Melissa Hubbard  
Ada County Prosecutor's Office  
Felony Division



00065

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700



RECEIVED  
MAY 10 2007  
PROSECUTING ATTORNEY'S OFFICE  
ADA COUNTY


IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

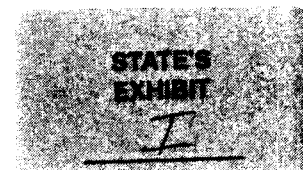
THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. H0700182
vs.	)	
	)	ADDENDUM TO
RICHARD DAVID POKORNEY,	)	DISCOVERY RESPONSE
	)	TO COURT
Defendant,	)	
_____	)	

Comes now, Fafa Alidjani, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted an Addendum to  
Response to Discovery.

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of May 2007.

**GREG H. BOWER**  
Ada County Prosecutor

  
\_\_\_\_\_  
Fafa Alidjani  
Deputy Prosecuting Attorney



**COPY**

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Fafa Alidjani**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, ID 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

Case No. H0700182

**ADDENDUM  
TO DISCOVERY**

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and makes the following Addendum to the previous Response to Discovery pursuant to Rule 16:

**16-A: No Change:**

**16-B: Stipulation Disclosure:**

(1) Statements of Defendant: N/A

(2) Co-defendant's Statement: N/A



(3) Defendant's Prior Record: N/A

(4) Documents and Tangible Objects:

- a. 911 Dispatch Log DR #622487 consisting of one (1) page
- b. 911 Audio Tape DR #622487 consisting of one (1) tape.
- c. 911 Dispatch Log DR #629345 consisting of one (1) page
- d. 911 Audio Tape DR #629345 consisting of one (1) tape.

(5) Reports of Examinations and/or Tests:

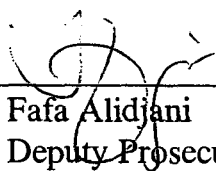
- a. CARES documents for Randson consisting of thirty-six (36) pages
- b. CARES Interview of Randson consisting of one (1) DVD;
- c. CARES Interview Audio of Randson consisting of one (1) tape
- d. CARES documents for Wesley consisting of thirty-eight (38) pages
- e. CARES Interview of Wesley consisting of one (1) DVD;
- f. CARES Interview Audio of Wesley consisting of one (1) tape
- g. CARES documents for Jerek consisting of thirty-five (35) pages
- h. CARES Interview of Jerek consisting of one (1) DVD;
- i. CARES Interview Audio of Jerek consisting of one (1) tape
- j. Curriculum Vitae of Mydell Yeager

(6) Witnesses:

- a. Mydell Yeager, Expert Witness, 3218 Overland Rd. Boise, ID 83705, 331-399 – who would testify to:
  - a. The general progression of child sexual abuse through various phases;
  - b. The behavior and characteristics of victims and offenders during the progression through those phases; and,
  - c. Delayed disclosure.

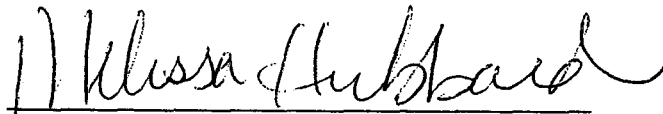
DATED This 15<sup>th</sup> day of May 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Fafa Alidjani  
Deputy Prosecuting Attorney

**CERTIFICATE OF DELIVERY**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of May 2007, I provided a true and correct copy of the foregoing Addendum to Discovery to: **Edward Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, Attorney for the Defendant, by depositing the same in the Ada County Public Defender's bin.

  
Melissa Hubbard

No. \_\_\_\_\_ FILED  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

MAY 22 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

**COPY**

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
RICHARD DAVID POKORNEY, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. H0700182

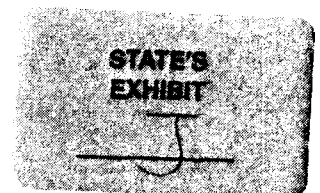
**SECOND ADDENDUM  
TO DISCOVERY**

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and makes the following Addendum to the previous Response to Discovery pursuant to Rule 16:

**16-A: No Change:**

**16-B: Stipulation Disclosure:**

- (1) Statements of Defendant:
  - a. as reflected in the Flathead Montana police reports
- (2) Co-defendant's Statement: N/A



- (3) Defendant's Prior Record: N/A
- (4) Documents and Tangible Objects:
- a. Flathead County Sheriff's Dept. Incident Report and other related documents regarding Deviate Sexual Conduct allegation dated May 13, 1984 - 12 pages
- (5) Reports of Examinations and/or Tests: N/A
- (6) Witnesses:
- a. Billy Lynn Willard Jr. c/o Ada County Prosecutor's office -
- \*\* please note: Billy Lynn Willard Jr. has a prior felony conviction for Possession of controlled substances from 1991. It also appears that he was arrested 1992 for Robbery and Battery with intent to commit a felony, however, the disposition of those cases is unknown at this point. State will supplement this information as soon as more details are known.

DATED This 22 day of May 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

By:   
Fafa Alidjani  
Deputy Prosecuting Attorney

### CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 22 day of May 2007, I provided a true and correct copy of the foregoing 2<sup>nd</sup> Addendum to Discovery to: **Edward Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702, Attorney for the Defendant, by hand delivery.**

Session: mclaughlin060107  
Session Date: 2007/06/01  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:21

Courtroom: CR507

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Haws, Joshua  
Lorello, David  
Owen, Patrick  
WATCOTT, JUSTIN  
Wolfe, Gerald

Public Defender(s):  
DeAngelo, Michael  
Geddes, Anthony  
Odessey, Edward  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0029

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/06/01

11:31:45 - Operator  
Recording:  
11:31:45 - New case  
Pokorney, Richard  
11:32:50 - Defendant: Pokorney, Richard  
in custody  
11:32:56 - State Attorney: Alidjani, Fafa  
present  
11:33:08 - Public Defender: Odessey, Edward  
present  
11:33:31 - Public Defender: Odessey, Edward  
problem with case  
11:34:01 - Public Defender: Odessey, Edward  
numerous recordings, ect that def does not have  
11:36:42 - State Attorney: Alidjani, Fafa

response as to issue

11:37:58 - Judge: McLaughlin, Michael R.  
speaks to defendant - as to speedy trial rights  
11:38:25 - Defendant: Pokorney, Richard  
will waive speedy trial rights  
11:39:49 - Judge: McLaughlin, Michael R.  
will set 5d JT 7/23-26th and also 7/30  
11:40:41 - Judge: McLaughlin, Michael R.  
PTC 7/13/07 at 10am  
11:40:54 - Judge: McLaughlin, Michael R.  
discovery complete by 6/22/07  
11:41:10 - Judge: McLaughlin, Michael R.  
trial vacated for 6/18  
11:42:04 - Public Defender: Odessey, Edward  
asking for GJ transcript copy for defendant  
11:43:35 - Operator  
Stop recording:

JUN 07 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
602 West Idaho Street  
Boise, Idaho 83702-5954  
Telephone: (208) 364-2121

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RICHARD DAVID POKORNEY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**Case No. H0700182**  
**MOTION TO RESET JURY TRIAL**

**COMES NOW**, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and moves this Court to continue the current Jury Trial date set in the above entitled matter. On June 1, 2007, by motion of the defendant, the trial date for this case was re-set to a proposed date of July 23, 2007, contingent on all necessary witnesses being available for this new trial date. Unfortunately, Mydel Yeager, state's expert witness regarding the issue of delayed disclosure of childhood sexual abuse, is unavailable and out of state during the week of July 23<sup>rd</sup>, 2007.

PL

Therefore, the state respectfully asks that the July 23, 2007, trial date be set to a suitable time for Court and Counsel. State is aware that the lead detective in this case, Detective Bill Smith, is unavailable August 2<sup>nd</sup>, 2007 through August 17, 2007, and October 8<sup>th</sup>, 2007, through October 17, 2007. All witnesses for the state appear to be available for the entire month of September, 2007.

DATED this 6<sup>th</sup> day of June, 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

By: Fafa Alijdani  
Deputy Prosecuting Attorney

#### **CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 6<sup>th</sup> day of June, 2007, I provided a true and correct copy of the foregoing MOTION TO RESET JURY TRIAL to: Edward Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702, Attorney for the Defendant, by depositing the same in the Ada County Public Defender's bin / interdepartmental mail.

Melissa Hubbard



Session: mclaughlin061307  
Session Date: 2007/06/13  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 13:34

Courtroom: CR508

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Bratcher, Kimberlee  
Haws, Joshua

Public Defender(s):  
DeAngelo, Michael  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0002

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: DeAngelo, Michael

2007/06/13

14:22:10 - Operator  
Recording:  
14:22:10 - New case  
Pokorney, Richard  
14:22:26 - Defendant: Pokorney, Richard  
in custody  
14:22:30 - Public Defender: DeAngelo, Michael  
present  
14:22:39 - State Attorney: Alidjani, Fafa  
present  
14:22:49 - Judge: McLaughlin, Michael R.  
speaks as to motion to reset trial, set now for 7/23/07  
14:23:28 - Judge: McLaughlin, Michael R.  
speaks to/questions defendant  
14:23:42 - Defendant: Pokorney, Richard  
wants to DQ public defender, Ed Odessey  
14:24:01 - Judge: McLaughlin, Michael R.  
will revisit issue for lpm 6/18/07  
14:24:56 - Judge: McLaughlin, Michael R.  
to defendant

14:25:02 - General:  
Time stamp  
14:28:06 - Defendant: Pokorney, Richard  
to Court  
14:29:29 - Operator  
Stop recording:

Session: mclaughlin062007  
Session Date: 2007/06/20  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 13:59

Courtroom: CR504

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Harmer, Ben  
Medema, Jonathan

Public Defender(s):  
DeAngelo, Michael  
Odessey, Edward  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/06/20

14:11:38 - Operator  
Recording:  
14:11:38 - New case  
Pokorney, Richard  
14:11:45 - Defendant: Pokorney, Richard  
present in custody  
14:11:51 - State Attorney: Alidjani, Fafa  
present  
14:12:09 - Public Defender: Odessey, Edward  
present  
14:12:19 - Judge: McLaughlin, Michael R.  
will get new trial setting first  
14:13:07 - Judge: McLaughlin, Michael R.  
will keep on for 5 days 10/15/07 at 9am, PTC 10/5/07 at 10am  
14:16:04 - Judge: McLaughlin, Michael R.  
motions filed by 9/7/07, discovery 8/31/07  
14:16:55 - Judge: McLaughlin, Michael R.  
will take up 404(b) motions at PTC  
14:17:26 - Judge: McLaughlin, Michael R.

now closed as to motion to DQ PD  
14:17:36 - Operator  
Stop recording:

*PD remains on  
case 10*

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 10 P.M.  
SEP 07 2007

J. DAVID NAVARRO, Clerk  
By C. STEWART  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
602 West Idaho Street  
Boise, Idaho 83702-5954  
Telephone: (208) 364-2121

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

RICHARD DAVID POKORNEY, )

Defendant. )

Case No. H0700182

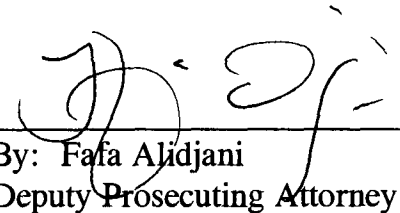
**MOTION TO RESET JURY  
TRIAL**

**COMES NOW**, Fafa Alidjani, Deputy Prosecuting Attorney for Ada County, State of Idaho, and moves this Court to continue the current Jury Trial date set in the above entitled matter for the following reason: Mydel Yeager, state's expert witness regarding the issue of delayed disclosure of childhood sexual abuse, is unavailable and out of state during the week of October 15 through October 19<sup>th</sup>, 2007. Please see the affidavit of Fafa Alidjani, Attached.

Therefore, the state respectfully asks that the October 15<sup>th</sup>, 2007, trial date be re-set to a suitable time for Court and Counsel.

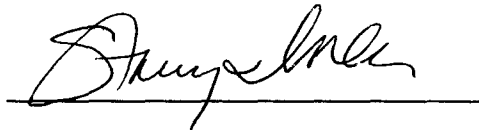
DATED this 4 day of September, 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Fafa Alidjani  
Deputy Prosecuting Attorney

**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY** that on this 6<sup>th</sup> day of ~~June~~ <sup>September</sup>, 2007, I provided a true and correct copy of the foregoing MOTION TO RESET JURY TRIAL and AFFIDAVIT REGARDINGN MOTION TO CONTINUE JURY TRIAL to: **Edward Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, Attorney for the Defendant, by depositing the same in the Ada County Public Defender's bin / interdepartmental mail.



**GREG H. BOWER**

Ada County Prosecuting Attorney

Fafa Alidjani

Deputy Prosecuting Attorney

200 W. Front Street, Room 366

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

Case No. H0201293

**AFFIDAVIT REGARDING  
MOTION TO CONTINUE JURY  
TRIAL DATE**

Fafa Alidjani, of the Ada County Prosecuting Attorney's Office, for the State of Idaho, being first duly sworn, deposes and says:

That your affiant is a Deputy Prosecutor for Ada County, State of Idaho;

That your affiant is the handling attorney for the above entitled matter, and has personal knowledge of the following facts:

1. That the trial in this case was originally scheduled for July 23, 2007.
2. That the state was prepared and able to begin trial on July 23, 2007.
3. That on June 1, 2007, by motion of the defendant, the jury trial date was reset to October 15<sup>th</sup> through October 22, 2007.

**AFFIDAVIT REGARDING MOTION FOR NEW TRIAL DATE (POKORNEY)**

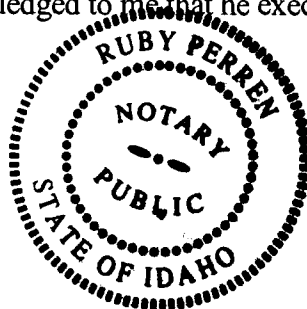
4. That the defendant waived his right to speedy trial within six months on June 1, 2007.
5. That a subpoena for state's expert witness, Mydel Yeager, was mailed on June 21, 2007.
6. That on August 31<sup>st</sup>, the state received a written notice that Mydel Yeager was out of state for the week of October 15-19<sup>th</sup>, 2007, and unavailable for testimony.
7. That Mrs. Fisher with Ada County Prosecutor's office spoke with Ms. Yeager by phone and Ms. Yeager explained that she had been out of state for the entire month of July and had not received the subpoena until she returned, and unfortunately it taken some time before she noticed the subpoena as she was reviewing all of her in-coming mail for the month of July.
8. That the state has attempted to secure another expert witness regarding the issue of "delayed disclosure of childhood sexual abuse" and has been unable to secure another available expert witness.
9. That Mydel Yeager's testimony in this case is vital and necessary in the state's case due to the fact that the four named victims all delayed their disclosure of abuse for a period of time ranging from months to several years.

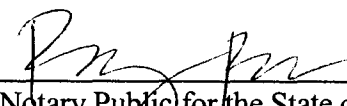
DATED this 4 day of September, 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Fafa Alidjani  
Deputy Prosecuting Attorney

On this 4 day of September, 2007, before me, a Notary Public for Idaho, appeared Fafa Alidjani, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



  
Notary Public for the State of Idaho  
Residing at: Meridian, Idaho  
My Commission Expires: 10/22/10



Session: mclaughlin092107  
Session Date: 2007/09/21  
Judge: McLaughlin, Michael R.  
Reporter: Hirmer, Jeanne

Division: DC  
Session Time: 08:25

Courtroom: CR507

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Haws, Joshua  
Lorello, David

Public Defender(s):  
DeAngelo, Michael  
Odessey, Edward  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0025

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/09/21

10:44:13 - Operator  
Recording:  
10:44:13 - New case  
Pokorney, Richard  
10:44:22 - Defendant: Pokorney, Richard  
present in custody  
10:44:27 - State Attorney: Alidjani, Fafa  
present  
10:44:36 - Public Defender: Odessey, Edward  
present  
10:44:40 - Judge: McLaughlin, Michael R.  
motion by State to vacate trial 10/15  
10:45:24 - Judge: McLaughlin, Michael R.  
reviews file  
10:49:24 - State Attorney: Alidjani, Fafa  
argues motion to continue trial, as to accommodatating witness  
10:51:03 - Public Defender: Odessey, Edward  
response, would like to begin 15th  
10:51:42 - Judge: McLaughlin, Michael R.

will start this trial on Oct. 16th  
10:51:54 - Judge: McLaughlin, Michael R.  
will reset PTC & 404 motion to 10/10/07 at 3pm  
10:53:28 - Operator  
Stop recording:

Session: mclaughlin101007  
Session Date: 2007/10/10  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 14:46

Courtroom: CR504

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Lorello, David

Public Defender(s):  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Additional audio and annotations can be found in case: 0002.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/10

14:58:23 - Operator  
Recording:  
14:58:23 - New case  
Pokorney, Richard  
14:58:37 - Defendant: Pokorney, Richard  
present in custody  
14:58:44 - Public Defender: Odessey, Edward  
present  
14:58:54 - State Attorney: Alidjani, Fafa  
present  
14:59:06 - State Attorney: Alidjani, Fafa  
stock instructions  
14:59:32 - Judge: McLaughlin, Michael R.  
counsel submit witness lists  
15:00:26 - State Attorney: Alidjani, Fafa  
oral argument re: 404(b) evidence  
15:04:03 - Public Defender: Odessey, Edward  
response to 404(b) motion  
15:12:18 - State Attorney: Alidjani, Fafa  
response to defense/Court  
15:16:37 - Judge: McLaughlin, Michael R.

will get written decision before trial, under advisement  
15:16:51 - Public Defender: Odessey, Edward  
as to relevance of letter from def to child  
15:17:57 - Judge: McLaughlin, Michael R.  
will take up this case on Monday 10/15/07 at 1:30pm  
15:20:40 - Defendant: Pokorney, Richard  
no longer wants defense counsel , will clear the courtroom  
15:21:00 - Judge: McLaughlin, Michael R.  
to counsel  
15:21:35 - Judge: McLaughlin, Michael R.  
to defendant  
15:28:45 - Defendant: Pokorney, Richard  
goes over deficiencies with counsel  
15:28:59 - Operator  
Stop recording:

---

Case ID: 0002

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Previous audio and annotations can be found in case: 0001.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

15:33:13 - Operator  
Recording:  
15:33:13 - Recall  
Pokorney, Richard  
15:33:19 - Operator  
Stop recording:

---

AM. \_\_\_\_\_ P.M. 3

OCT 10 2007

*[Handwritten signature: David Navarro]*  
DAVID NAVARRO, CLERK  
CLERK

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700  
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. H0700182
	)	
vs.	)	STATE'S LIST OF
	)	POTENTIAL TRIAL
RICHARD DAVID POKORNEY,	)	WITNESSES
	)	
Defendant.	)	
_____	)	

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney, in and for the County of Ada,  
State of Idaho, and does hereby provide the following list of trial witnesses:

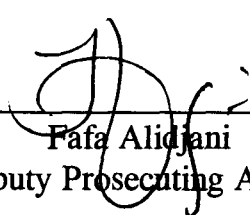
- a. Margi Farmer - CARES St. Lukes
- b. Linda Gohn - address previously disclosed under separate cover
- c. Jason Gohn - address previously disclosed under separate cover
- d. Alisa Ortega - CARES St. Lukes
- e. Ragner Pokorney - address previously disclosed under separate cover
- f. Wesley Pokorney - address previously disclosed under separate cover
- g. Jarek Pokoreny - address previously disclosed under separate cover
- h. Randson Pokoreny - address previously disclosed under separate cover

*LB*

- i. Mydel Yeager – Expert witness re: delayed disclosure of childhood sexual abuse
- j. Sgt. Dave Johnson – BPD
- k. Justin Kendall – BPD
- l. Bill Smith – BPD
- m. Andrew Linn – BPD
- n. Lee Reiber – BPD
- o. Linda Scown – ACSO
- p. Greg Sexton – BPD
- q. Deb Shaw – Ada County Dispatcher
- r. Larry Hunter – Ada County Dispatcher
- s. Lorene Menges – Ada County Dispatcher
- t. Mydell Yeager, c/o Ada County Prosecutor's Office
- u. Billy Lynn Willard, Jr., c/o Ada County Prosecutor's Office

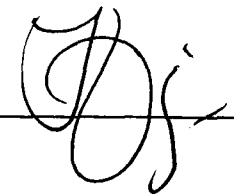
*October*  
DATED this 10 day of ~~June~~, 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: **Pafa Alidjani**  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

*October*  
**I HEREBY CERTIFY** that on this 10 day of ~~June~~ 2007, I mailed a true and correct copy of the foregoing STATE'S LIST OF POTENTIAL WITNESSES to: **Ed Odessy, Ada County Deputy Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, by interoffice mail:



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

AM. \_\_\_\_\_ P.M. 3  
OCT 10 2007

*[Handwritten signature]*  
DAVID HAVARD, CLERK  
CLERK

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. H0700182
Plaintiff,	)	
	)	DEFENDANT'S LIST OF
vs.	)	POTENTIAL TRIAL WITNESSES
	)	
RICHARD DAVID POKORNEY,	)	
	)	
Defendant.	)	
	)	

COMES NOW, RICHARD DAVID POKORNEY, the defendant above-named, by and through counsel EDWARD B. ODESSEY, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial witnesses:

- |                     |                      |
|---------------------|----------------------|
| a) Randson Pokorney | f) Linda Gohn        |
| b) Wes Pokorney     | g) Officer Sexton    |
| c) Ragner Pokorney  | h) Officer B. Smith  |
| d) Jarek Pokorney   | i) Sgt. Dave Johnson |
| e) Jason Pokorney   | j) Det. Lee Reiber   |

DATED, this 10th day of October 2007.

*[Handwritten signature of Edward B. Odessey]*  
EDWARD B. ODESSEY  
Attorney for Defendant

*[Handwritten mark]*

Session: mclaughlin101507  
Session Date: 2007/10/15  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 13:08

Courtroom: CR503

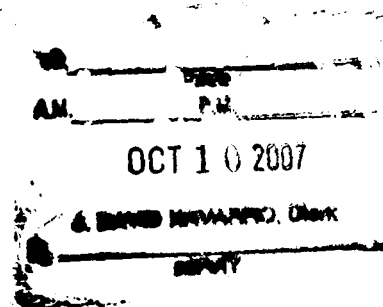
Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa

Public Defender(s):  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):



Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/15

13:33:32 - Operator  
Recording:  
13:33:32 - New case  
Pokorney, Richard  
13:33:39 - Defendant: Pokorney, Richard  
present in custody  
13:33:45 - State Attorney: Alidjani, Fafa  
present  
13:34:38 - Public Defender: Odessey, Edward  
present  
13:34:48 - Judge: McLaughlin, Michael R.  
speaks as to pending motions, defendant request  
13:35:58 - Judge: McLaughlin, Michael R.  
speaks as to defendant wanting to examine victims  
13:36:31 - Defendant: Pokorney, Richard  
does not want Mr. Odessey to represent him  
13:37:07 - Defendant: Pokorney, Richard  
will represent self  
13:37:20 - Judge: McLaughlin, Michael R.  
as to def representing self  
13:39:25 - Defendant: Pokorney, Richard  
understands  
13:46:05 - Judge: McLaughlin, Michael R.

00091



decision as to 404(b) evidence, prior bad acts  
13:47:18 - Judge: McLaughlin, Michael R.  
may be presented in case in chief  
13:47:36 - Judge: McLaughlin, Michael R.  
counsel & def to be present at 8:30am  
13:49:06 - Operator  
Stop recording:

Session: mclaughlin101607  
Session Date: 2007/10/16  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:18

Courtroom: CR504

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa

Public Defender(s):  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/16

08:30:27 - Operator  
Recording:  
08:30:27 - New case  
Pokorney, Richard  
08:30:32 - Judge: McLaughlin, Michael R.  
counsel, defendant ready to proceed  
08:30:42 - Judge: McLaughlin, Michael R.  
as to jurors appearing today, objections  
08:40:20 - Judge: McLaughlin, Michael R.  
will be back at 8:55am  
08:40:29 - Operator  
Stop recording:  
08:57:52 - Operator  
Recording:  
08:57:52 - Record  
Pokorney, Richard  
08:57:54 - Judge: McLaughlin, Michael R.  
back on record  
08:57:59 - Defendant: Pokorney, Richard  
wants Mr. Odessey to now represent him  
08:58:09 - Judge: McLaughlin, Michael R.  
questions defendant  
08:59:54 - Operator

Stop recording: (On Recess)  
09:16:15 - Operator  
Recording:  
09:16:15 - Record  
Pokorney, Richard  
09:26:56 - Other: In, Jury Brought  
09:28:00 - Judge: McLaughlin, Michael R.  
welcomes jury  
09:32:21 - Other: Jury, Roll call of  
FTA's , continues to jury  
09:39:12 - Judge: McLaughlin, Michael R.  
jury sworn for voir dire  
09:39:18 - Judge: McLaughlin, Michael R.  
begins voir dire to jury  
10:02:48 - Judge: McLaughlin, Michael R.  
continues with jury  
10:13:48 - Judge: McLaughlin, Michael R.  
continues with jury  
10:27:14 - Judge: McLaughlin, Michael R.  
will begin individual questioning of jurors  
10:29:14 - Judge: McLaughlin, Michael R.  
juror #2 - individual questioning  
10:31:47 - Judge: McLaughlin, Michael R.  
#2 excused  
10:31:51 - Judge: McLaughlin, Michael R.  
juror #8 - individual questioning  
10:32:44 - Judge: McLaughlin, Michael R.  
#8 excused  
10:34:25 - Judge: McLaughlin, Michael R.  
juror #11 - individual questioning  
10:41:22 - Operator  
Stop recording:  
10:57:47 - Operator  
Recording:  
10:57:47 - Record  
Pokorney, Richard  
10:58:05 - Judge: McLaughlin, Michael R.  
juror #20 - individual questioning  
11:07:42 - Judge: McLaughlin, Michael R.  
juror #25 - individual questioning  
11:11:48 - Judge: McLaughlin, Michael R.  
juror seat 25 excused  
11:12:48 - Judge: McLaughlin, Michael R.  
juror #24 - individual questioning  
11:22:24 - Judge: McLaughlin, Michael R.  
juror #24 excused  
11:22:53 - Judge: McLaughlin, Michael R.  
juror #28 - individual questioning, excused  
11:31:31 - Judge: McLaughlin, Michael R.  
juror #29 - individual questioning  
11:43:55 - Judge: McLaughlin, Michael R.  
jury brought in  
11:47:41 - Judge: McLaughlin, Michael R.  
2 more questions to jury  
11:51:50 - State Attorney: Alidjani, Fafa  
begins voir dire to jury  
12:20:43 - Operator  
Stop recording: (On Recess)

12:44:51 - Operator  
Recording:  
12:44:51 - Record  
Pokorney, Richard  
12:44:51 - Public Defender: Odessey, Edward  
Adresses Court re: opening statements  
12:45:31 - Judge: McLaughlin, Michael R.  
opening statements will be heard tomorrow  
12:49:59 - Other: IN, JURY BROUGHT  
12:51:07 - Public Defender: Odessey, Edward  
voir dire to jury  
13:19:57 - Judge: McLaughlin, Michael R.  
dismisses remainder of panel, will begin peremptory challeng  
es  
13:21:38 - Judge: McLaughlin, Michael R.  
peremptory challenges  
13:49:10 - Judge: McLaughlin, Michael R.  
jury impanled to try case  
13:51:45 - Judge: McLaughlin, Michael R.  
counsel accept jury  
13:52:20 - Other: jurors  
sworn to try case  
13:53:00 - Judge: McLaughlin, Michael R.  
will adjourn for day - jurors to back at 9am tomorrow  
13:53:14 - Judge: McLaughlin, Michael R.  
instructs jurors  
13:53:50 - Other: Out, Jury taken  
13:54:24 - Judge: McLaughlin, Michael R.  
to counsel, as to witnesses for tomorrow  
13:55:16 - State Attorney: Alidjani, Fafa  
response  
13:56:01 - Operator  
Stop recording:

Session: mclaughlin101707  
Session Date: 2007/10/17  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:30

Courtroom: CR504

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Armstrong, Shelley  
Haws, Joshua  
Lorello, David

Public Defender(s):  
DeAngelo, Michael  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

JT day 2

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/17

08:31:45 - Operator  
Recording:  
08:31:45 - New case  
Pokorney, Richard  
08:38:45 - Judge: McLaughlin, Michael R.  
on record  
08:38:48 - Defendant: Pokorney, Richard  
present  
08:38:51 - State Attorney: Alidjani, Fafa  
present  
08:39:00 - Public Defender: Odessey, Edward  
present  
08:39:08 - Judge: McLaughlin, Michael R.  
speaks as to instructions 3-14, to be given today  
08:39:24 - Public Defender: Odessey, Edward  
no objection  
08:39:33 - Judge: McLaughlin, Michael R.  
no preliminary matters  
08:39:39 - Public Defender: Odessey, Edward

will make opening statement today  
08:39:57 - Judge: McLaughlin, Michael R.  
will start at 9am sharp  
08:40:05 - State Attorney: Alidjani, Fafa  
as to instruction #28  
08:40:32 - Operator  
Stop recording:  
09:02:17 - Operator  
Recording:  
09:02:17 - Record  
Pokorney, Richard  
09:02:25 - Other: In, Jury Brought  
09:02:36 - Judge: McLaughlin, Michael R.  
welcomes jurors, all present  
09:02:44 - Judge: McLaughlin, Michael R.  
reads preliminary instructions to jury  
09:04:27 - Judge: McLaughlin, Michael R.  
Indictment read to jury  
09:09:48 - Judge: McLaughlin, Michael R.  
continues instructions to jury  
09:19:11 - State Attorney: Alidjani, Fafa  
opening statements to jury  
09:30:10 - Public Defender: Odessey, Edward  
opening statement to jury  
09:37:29 - Other: Gohn, Jason  
sworn as witness  
09:38:16 - State Attorney: Alidjani, Fafa  
examination of witness  
09:53:36 - Public Defender: Odessey, Edward  
cross examination of witness  
10:11:54 - State Attorney: Alidjani, Fafa  
re-direct to witness  
10:19:13 - Public Defender: Odessey, Edward  
limited re-cross to witness  
10:20:17 - State Attorney: Alidjani, Fafa  
clarifies with witness  
10:20:48 - Other: Excused, Witness  
subject to re-call  
10:23:48 - Other: Pokorney, Wesley  
sworn as witness  
10:23:56 - State Attorney: Alidjani, Fafa  
examination of witness  
10:37:41 - Operator  
Stop recording: (On Recess)

Session: mclaughlin101807  
Session Date: 2007/10/18  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:38

Courtroom: CR504

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa

Public Defender(s):  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

Vtd 3

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/18

08:39:12 - Operator  
Recording:  
08:39:12 - New case  
Pokorney, Richard  
08:39:18 - Judge: McLaughlin, Michael R.  
to defendant as to self representation  
08:39:28 - State Attorney: Alidjani, Fafa  
present  
08:39:38 - Public Defender: Odessey, Edward  
present  
08:39:47 - Judge: McLaughlin, Michael R.  
continues with defendant  
08:40:11 - State Attorney: Alidjani, Fafa  
steps outside  
08:40:22 - Operator  
Stop recording:  
08:55:57 - Operator  
Recording:  
08:55:57 - Record  
Pokorney, Richard  
08:55:58 - Judge: McLaughlin, Michael R.  
to counsel, defendant will represent self from this point fo  
rward

08:56:26 - Judge: McLaughlin, Michael R.  
will instruct jury  
08:57:04 - Operator  
Stop recording: (On Recess)  
09:03:12 - Operator  
Recording:  
09:03:12 - Record  
Pokorney, Richard  
09:03:21 - Other: In, Jury Brought  
09:04:17 - Judge: McLaughlin, Michael R.  
to jurors, all present, advises the jury of def's choice to  
represent self  
09:05:14 - Other: Stand, Wesley Pokorney reta  
09:05:36 - Judge: McLaughlin, Michael R.  
speaks to witness  
09:05:43 - State Attorney: Alidjani, Fafa  
proceeds exam with witness  
09:11:00 - Defendant: Pokorney, Richard  
cross exam of witness  
09:12:25 - State Attorney: Alidjani, Fafa  
objection  
09:27:38 - Playback started:  
09:35:03 - Other: Excused, Witness  
09:35:12 - Other: Pokorney, Randson  
sworn as witness  
09:48:00 - Defendant: Pokorney, Richard  
cross exam of witness  
09:50:37 - Judge: McLaughlin, Michael R.  
admonishes defendant  
09:50:52 - Defendant: Pokorney, Richard  
continues to witness  
09:57:03 - Judge: McLaughlin, Michael R.  
objection sustained  
09:57:11 - Defendant: Pokorney, Richard  
continues  
10:14:41 - Judge: McLaughlin, Michael R.  
WILL TAKE SHORT RECESS AT THIS TIME  
10:16:09 - Judge: McLaughlin, Michael R.  
on record, Court's observations  
10:21:35 - Judge: McLaughlin, Michael R.  
is giving def opportunity to confer with counsel  
10:22:21 - Operator  
Stop recording: (On Recess)  
10:41:59 - Operator  
Recording:  
10:41:59 - Record  
Pokorney, Richard  
10:42:00 - Judge: McLaughlin, Michael R.  
BACK ON RECORD  
10:42:04 - Judge: McLaughlin, Michael R.  
speaks to State and defendant pro se  
10:42:39 - Judge: McLaughlin, Michael R.  
speaks to defendant as to self representation  
10:43:52 - Operator  
Stop recording: (On Recess)  
10:50:32 - Operator  
Recording:  
10:50:32 - Record

00099



Pokorney, Richard  
10:50:37 - Other: In, Jury Brought  
10:51:22 - Judge: McLaughlin, Michael R.  
all jurors present, witness retakes witness stand  
10:51:35 - Judge: McLaughlin, Michael R.  
defendant to continue with cross  
10:51:59 - Defendant: Pokorney, Richard  
continues cross exam of witness  
10:52:43 - Defendant: Pokorney, Richard  
nothing further  
10:52:51 - Other: Excused, Witness  
10:53:20 - Other: Willard, Bill  
sworn as witness  
10:53:45 - Playback stopped:  
10:55:10 - State Attorney: Alidjani, Fafa  
direct exam of witness  
11:19:48 - Defendant: Pokorney, Richard  
no questions  
11:19:58 - Other: Excused, Witness  
11:20:47 - Other: Pokorney, Jarek  
takes witness stand  
11:21:19 - Other: Tuber, Danielle  
victim witness coordinator with witness  
11:28:05 - Defendant: Pokorney, Richard  
no questions  
11:28:19 - Other: Down, Witness steps  
11:28:31 - Other: Gohn, Linda  
sworn as witness  
11:29:15 - State Attorney: Alidjani, Fafa  
direct examination of witness  
11:49:59 - Judge: McLaughlin, Michael R.  
exhibit 1 presented to witness  
11:50:11 - State Attorney: Alidjani, Fafa  
continues to witness  
11:53:01 - Judge: McLaughlin, Michael R.  
exhibit 1 admitted  
12:01:19 - Judge: McLaughlin, Michael R.  
exhibit 1 published to jury  
12:07:59 - State Attorney: Alidjani, Fafa  
nothing further  
12:08:13 - Defendant: Pokorney, Richard  
cross exam of witness  
12:16:49 - Judge: McLaughlin, Michael R.  
afternoon recess  
12:17:00 - Other: Out, Jury Taken  
12:17:34 - State Attorney: Alidjani, Fafa  
as to document, will provide new copy of exhibit  
12:18:50 - Operator  
Stop recording:  
12:41:34 - Operator  
Recording:  
12:41:34 - Record  
Pokorney, Richard  
12:41:39 - Judge: McLaughlin, Michael R.  
juror #5, Scot Ludwig issue, needs to be excused  
12:42:51 - Judge: McLaughlin, Michael R.  
excuses juror #5, family medical emergency  
12:43:22 - Defendant: Pokorney, Richard

objects to juror being excused  
12:45:12 - State Attorney: Alidjani, Fafa  
issues for Court  
12:46:29 - Defendant: Pokorney, Richard  
response to Court  
12:49:35 - Other: In, Jury Brought  
12:49:38 - Judge: McLaughlin, Michael R.  
as to replacement exhibit  
12:50:04 - Judge: McLaughlin, Michael R.  
exhibit 1 substituted  
12:50:35 - Other: In, Jury Brought  
12:51:52 - Defendant: Pokorney, Richard  
continues cross exam of witness Linda Gohn  
13:11:24 - State Attorney: Alidjani, Fafa  
objection  
13:36:08 - State Attorney: Alidjani, Fafa  
re-direct exam to witness  
13:41:44 - Defendant: Pokorney, Richard  
additional re-cross to witness  
13:47:57 - Other: Excused, Witness  
13:47:59 - Judge: McLaughlin, Michael R.  
excuses jury for day - admonishes jury  
13:48:16 - Other: Out, Jury Taken  
13:48:48 - Judge: McLaughlin, Michael R.  
to counsel, as to Monday's witnesses  
13:49:26 - Judge: McLaughlin, Michael R.  
questions defendant  
13:49:34 - Defendant: Pokorney, Richard  
will testify on Monday  
13:50:30 - Judge: McLaughlin, Michael R.  
to defendant, as to testimony  
13:52:17 - State Attorney: Alidjani, Fafa  
as to redacted instruction  
13:52:27 - Defendant: Pokorney, Richard  
questions Court as to testimony  
13:53:23 - Operator  
Stop recording:

Session: mclaughlin102207  
Session Date: 2007/10/22  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:31

Courtroom: CR504

UTd 4

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Haws, Joshua

Public Defender(s):  
DeAngelo, Michael  
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Additional audio and annotations can be found in case: 0003.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2007/10/22

08:33:15 - Operator  
Recording:  
08:33:15 - New case  
Pokorney, Richard  
08:33:20 - Defendant: Pokorney, Richard  
present, pro se  
08:33:24 - State Attorney: Alidjani, Fafa  
present  
08:33:34 - Defendant: Pokorney, Richard  
addresses matter with Court, wants original letter admitted  
08:33:43 - Public Defender: Odessey, Edward  
present, as stand by counsel  
08:34:12 - State Attorney: Alidjani, Fafa  
response  
08:34:59 - Judge: McLaughlin, Michael R.  
to counsel, parties as to letter being introduced, without re  
dactions  
08:39:36 - Judge: McLaughlin, Michael R.  
to defendant as to ex-wives history  
08:39:52 - Defendant: Pokorney, Richard

would still like original, unredacted letter into evidence  
08:40:12 - State Attorney: Alidjani, Fafa  
as to original letter  
08:45:40 - Judge: McLaughlin, Michael R.  
count 4 will be dismissed at this time  
08:46:58 - Judge: McLaughlin, Michael R.  
as to SANE records, ruled inadmissible  
08:47:22 - Defendant: Pokorney, Richard  
offering GJ transcript as evidence  
08:47:38 - Judge: McLaughlin, Michael R.  
will not allow GJ transcript as evidence  
08:52:19 - Operator  
Stop recording:  
09:05:38 - Operator  
Recording:  
09:05:38 - Record  
Pokorney, Richard  
09:05:39 - Defendant: Pokorney, Richard  
wants jury instruction conference  
09:05:47 - Judge: McLaughlin, Michael R.  
will discuss later this morning  
09:06:38 - Other: In, Jury Brought  
09:07:05 - Judge: McLaughlin, Michael R.  
all jurors, counsel, present present  
09:08:25 - Other: Farmer, Margaret  
sworn as witness  
09:08:31 - State Attorney: Alidjani, Fafa  
examination of witness, CARES interviewer  
09:22:32 - Defendant: Pokorney, Richard  
cross exam of witness  
09:34:59 - Other: Smith, Det. Bill  
sworn as witness  
09:35:05 - State Attorney: Alidjani, Fafa  
examination of witness  
09:41:58 - Defendant: Pokorney, Richard  
cross examination of witness  
09:58:39 - Other: Excused, Witness  
09:58:44 - Judge: McLaughlin, Michael R.  
gives jury instruction re: polygraph evidence  
10:00:19 - State Attorney: Alidjani, Fafa  
State Rests  
10:00:31 - Other: Out, Jury Taken  
short recess  
10:01:54 - Judge: McLaughlin, Michael R.  
to counsel  
10:02:00 - Defendant: Pokorney, Richard  
addresses Court  
10:04:19 - Judge: McLaughlin, Michael R.  
will not allow a transcript to be made for def's closing  
10:06:05 - State Attorney: Alidjani, Fafa  
response  
10:09:02 - Judge: McLaughlin, Michael R.  
motion to dismiss count 3 denied  
10:09:21 - Defendant: Pokorney, Richard  
nothing further  
10:11:09 - Operator  
Stop recording:  
10:26:01 - Operator

## Recording:

10:26:01 - Record  
Pokorney, Richard  
10:26:29 - Other: In, Jury Brought  
10:26:50 - Judge: McLaughlin, Michael R.  
Defense case begins  
10:27:05 - Other: Pokorney, Ragner  
sworn as witness  
10:27:38 - Defendant: Pokorney, Richard  
examination of witness  
10:29:35 - Judge: McLaughlin, Michael R.  
objection sustained  
10:32:46 - Defendant: Pokorney, Richard  
continues examination of witness  
10:49:13 - State Attorney: Alidjani, Fafa  
cross examination of witness  
10:59:11 - Other: Excused, Witness  
10:59:26 - Judge: McLaughlin, Michael R.  
short recess  
10:59:35 - Other: Out, Jury Taken  
11:01:30 - Other: In, Jury Brought  
11:02:17 - Defendant: Pokorney, Richard  
sworn as witness  
11:02:22 - Judge: McLaughlin, Michael R.  
explanation to jury as to def testifying  
11:27:44 - State Attorney: Alidjani, Fafa  
cross exam of witness  
11:44:45 - Judge: McLaughlin, Michael R.  
ex 1 shown to witness  
11:46:19 - State Attorney: Alidjani, Fafa  
continues with witness  
12:06:13 - State Attorney: Alidjani, Fafa  
continues with witness  
12:21:21 - Judge: McLaughlin, Michael R.  
afternoon recess  
12:21:43 - Operator  
Stop recording: (On Recess)  
12:21:50 - Operator  
Recording:  
12:21:50 - Record  
Pokorney, Richard  
12:21:57 - Operator  
Stop recording: (On Recess)  
13:00:28 - Operator  
Recording:  
13:00:28 - Record  
Pokorney, Richard  
13:00:28 - State Attorney: Alidjani, Fafa  
has completed cross  
13:00:35 - Judge: McLaughlin, Michael R.  
questions defendant's exhibit A  
13:00:44 - Judge: McLaughlin, Michael R.  
ex. A admitted  
13:03:32 - Judge: McLaughlin, Michael R.  
discussion re: instructions  
13:10:44 - Judge: McLaughlin, Michael R.  
exhibit A marked, Court reviews  
13:12:38 - Judge: McLaughlin, Michael R.

ready to proceed  
13:12:51 - Other: In, Jury Brought  
13:13:19 - Judge: McLaughlin, Michael R.  
all jurors present, counsel, defendant present  
13:13:30 - State Attorney: Alidjani, Fafa  
no additional cross  
13:13:36 - Defendant: Pokorney, Richard  
re-directs self, after State cross  
13:16:43 - Defendant: Pokorney, Richard  
defense rests  
13:16:48 - State Attorney: Alidjani, Fafa  
2 rebuttal witnesses  
13:17:26 - Other: Gohn, Jason  
retakes witness stand  
13:17:33 - State Attorney: Alidjani, Fafa  
rebuttal exam of witness  
13:19:30 - Defendant: Pokorney, Richard  
cross examines witness  
13:20:44 - Other: Excused, Witness  
13:20:49 - Other: Smith, Det Bill  
retakes witness stand  
13:20:55 - State Attorney: Alidjani, Fafa  
rebuttal exam of witness  
13:21:48 - Defendant: Pokorney, Richard  
cross exam  
13:22:52 - Defendant: Pokorney, Richard  
nothing further  
13:23:00 - Other: Excused, Witness  
13:23:02 - State Attorney: Alidjani, Fafa  
No further evidence  
13:23:18 - Judge: McLaughlin, Michael R.  
will now go over final instructions  
13:23:30 - Other: Out, Jury Taken  
13:24:15 - Operator  
Stop recording: (On Recess)  
13:38:13 - Operator  
Recording:  
13:38:13 - Record  
Pokorney, Richard  
13:38:14 - Judge: McLaughlin, Michael R.  
back on record  
13:39:12 - Judge: McLaughlin, Michael R.  
to counsel, defendant as to instructions  
13:39:31 - State Attorney: Alidjani, Fafa  
response, as to intent  
13:44:33 - Judge: McLaughlin, Michael R.  
proposes eliminating instruction #25  
13:51:57 - Operator  
Stop recording:  
13:55:25 - Operator  
Recording:  
13:55:25 - Record  
Pokorney, Richard  
13:55:34 - Other: In, Jury Brought  
13:56:16 - Judge: McLaughlin, Michael R.  
final instructions read to jury  
14:08:54 - State Attorney: Alidjani, Fafa  
Closing remarks to jury

14:26:55 - Defendant: Pokorney, Richard  
makes closing statement to jury  
14:56:15 - State Attorney: Alidjani, Fafa  
final remarks to jury  
15:04:22 - Judge: McLaughlin, Michael R.  
bailiff sworn,  
15:04:31 - Other: Out, Jury Taken  
15:05:38 - Operator  
Stop recording:

---

Case ID: 0003

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Previous audio and annotations can be found in case: 0001.  
Additional audio and annotations can be found in case: 0004.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

18:45:49 - Operator  
Recording:  
18:45:49 - Recall  
Pokorney, Richard  
18:47:04 - Judge: McLaughlin, Michael R.  
question from the jury  
18:47:10 - Judge: McLaughlin, Michael R.  
all counsel, parties present  
18:49:13 - Judge: McLaughlin, Michael R.  
reads question to counsel, re: potential answer to parties  
18:50:17 - State Attorney: Alidjani, Fafa  
response, as to proposed answer, discretion of the Court  
18:50:28 - Defendant: Pokorney, Richard  
to Court, agrees  
18:51:10 - Judge: McLaughlin, Michael R.  
response,  
18:51:14 - Judge: McLaughlin, Michael R.  
answer discussed  
18:56:03 - State Attorney: Alidjani, Fafa  
no objection  
18:56:08 - Defendant: Pokorney, Richard  
no objection  
18:56:28 - Operator  
Stop recording:

---

Case ID: 0004

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard

Previous audio and annotations can be found in case: 0003.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

20:40:20 - Operator  
Recording:  
20:40:20 - Recall  
Pokorney, Richard  
20:40:26 - Judge: McLaughlin, Michael R.  
jury has reached a verdict  
20:40:45 - Judge: McLaughlin, Michael R.  
jury deliberations from 3:05 to 8:35pm  
20:42:29 - Other: In, Jury brought  
20:42:57 - Judge: McLaughlin, Michael R.  
all jurors present, counsel, defendant present  
20:43:06 - Judge: McLaughlin, Michael R.  
#8 presiding juror  
20:43:14 - Defendant: Pokorney, Richard  
stands to face jury  
20:43:20 - Judge: McLaughlin, Michael R.  
reads verdict aloud  
20:43:26 - Judge: McLaughlin, Michael R.  
as to count 1 - guilty, count 2 - guilty  
20:43:39 - Judge: McLaughlin, Michael R.  
count 3 - not guilty  
20:43:45 - Judge: McLaughlin, Michael R.  
count 5 - guilty  
20:43:50 - Judge: McLaughlin, Michael R.  
count 6 - guilty  
20:43:56 - Judge: McLaughlin, Michael R.  
count 7 - guilty  
20:44:08 - Judge: McLaughlin, Michael R.  
signed by presiding juror  
20:44:19 - State Attorney: Alidjani, Fafa  
wishes poll of jury  
20:44:25 - Judge: McLaughlin, Michael R.  
polls juror by number, camera present  
20:45:34 - Judge: McLaughlin, Michael R.  
continues poll of jury  
20:47:55 - Judge: McLaughlin, Michael R.  
thanks jurors for service  
20:48:03 - Judge: McLaughlin, Michael R.  
final instructions to jurors  
20:50:16 - Other: Jury Discharged, Taken back  
20:50:43 - Judge: McLaughlin, Michael R.  
appeal rights to defendant  
20:51:10 - Defendant: Pokorney, Richard  
does not wish to have atty present  
20:51:18 - Judge: McLaughlin, Michael R.  
explains atty rights to defendant  
20:51:50 - Judge: McLaughlin, Michael R.  
will order PSI, and psycho-sexual evaluation  
20:52:04 - Judge: McLaughlin, Michael R.  
advice of rights



20:52:42 - Defendant: Pokorney, Richard  
will participate in eval, and PSI, State to prepare order  
20:53:18 - Judge: McLaughlin, Michael R.  
will set sentencing 1/9/08 at 3pm  
20:53:33 - Judge: McLaughlin, Michael R.  
will revoke any bail set at this time, PD discharged  
20:54:34 - Operator  
Stop recording:

---

AM. \_\_\_\_\_ P.M. 9

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF OCT 22 2007

THE STATE OF IDAHO, IN FOR THE COUNTY OF ADAMS *[Signature]*

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
RICHARD DAVID POKORNEY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

CASE NO. H0700182

VERDICT

As to the offense of **Count I: Lewd Conduct with a Minor Under Sixteen**, we,  
the jury, find the defendant:

\_\_\_\_ NOT GUILTY  
☒ GUILTY

As to the offense of **Count II: Lewd Conduct with a Minor Under Sixteen**:

\_\_\_\_ NOT GUILTY  
☒ GUILTY

As to the offense of **Count III: Lewd Conduct with a Minor Under Sixteen**:

☒ NOT GUILTY  
\_\_\_\_ GUILTY

*[Handwritten mark]*

As to the offense of **Count V: Lewd Conduct with a Minor Under Sixteen:**

☐ NOT GUILTY

☒ GUILTY

As to the offense of **Count VI: Lewd Conduct with a Minor Under Sixteen:**

☐ NOT GUILTY

☒ GUILTY

As to the offense of **Count VII: Lewd Conduct with a Minor Under Sixteen:**

☐ NOT GUILTY

☒ GUILTY

Dated this 22<sup>nd</sup> day of October 2007.

Beth Melton  
Presiding Juror

AM. 11 P.M. 11

OCT 29 2007

*Kristin*

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Fafa Alidjani**  
Deputy Prosecuting Attorney  
200 West Front Street  
Boise, Idaho 83702-5954  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. H0700182
	)	
vs.	)	ORDER FOR
	)	PSYCHOSEXUAL
RICHARD DAVID POKORNEY,	)	EVALUATION
Defendant.	)	
_____	)	

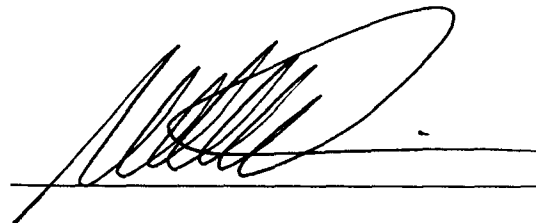
The jury having returned a verdict of guilty to LEWD CONDUCT WITH  
A **MINOR** UNDER THE AGE OF SIXTEEN (FIVE COUNTS);

**IT IS ORDERED** that the Defendant may submit to a psychosexual  
evaluation to be conducted by a S.A.N.E. evaluator who is "certified" as defined  
by the rules of the Sexual Offender Classification Board<sup>1</sup>, at the expense of Ada  
County. The evaluator shall have access to the Ada County Jail as the defendant is  
held in custody. The evaluator shall prepare a report and submit it to the court in

<sup>1</sup> The rules of the Sexual Offender Classification Board were drafted pursuant to the legal authority of  
Section 18-8312(7), Idaho Code, to implement the provisions of Sections 18-8321, Idaho Code effective  
October 1, 2004.

written form, and shall state whether it is probable that the offender is a violent sexual predator in compliance with I.C. 18-8316. The evaluation shall be in the format established by the Sexual Offender Classification Board. The evaluator shall administer a polygraph examination, if necessary to determine the defendant's risk, and shall conduct it in accordance with the rules established by the Sexual Offender Classification Board. Ada County shall have the right to be reimbursed from the defendant for the cost of the evaluation.

**DATED** this 24 day of October, 2007.

A handwritten signature in black ink, consisting of several loops and strokes, is written over a horizontal line.

District Judge

Session: mclaughlin010908  
Session Date: 2008/01/09  
Judge: McLaughlin, Michael R.  
Reporter: Hohenleitner, Tammy

Division: DC  
Session Time: 08:01

Courtroom: CR507

Clerk(s):  
Brown, Kristin

State Attorneys:  
Alidjani, Fafa  
Armstrong, Shelley  
Atwood, Chris  
Bennetts, Jan  
Dunn, Shawna  
Haws, Joshua

Public Defender(s):  
Bublitz, Jessica  
Odessey, Edward  
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0036

Case Number: H0700182  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Pokorney, Richard  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Alidjani, Fafa  
Public Defender: Odessey, Edward

2008/01/09

15:19:21 - Operator  
Recording:  
15:19:21 - New case  
Pokorney, Richard  
15:19:31 - Defendant: Pokorney, Richard  
present in custody pro se  
15:19:39 - State Attorney: Alidjani, Fafa  
present  
15:19:56 - Defendant: Pokorney, Richard  
would like to visit with Mr. Odessey  
15:20:12 - Operator  
Stop recording:  
15:20:23 - Operator  
Recording:  
15:20:23 - Record  
Pokorney, Richard

00113

15:20:25 - Public Defender: Odessey, Edward  
present  
15:20:48 - Judge: McLaughlin, Michael R.  
speaks as to PSI being delivered on Monday  
15:21:38 - Judge: McLaughlin, Michael R.  
questions defendant as to PSI - sufficient time - will proceed to sentencing  
15:22:08 - Judge: McLaughlin, Michael R.  
as to subpoenas  
15:25:07 - State Attorney: Alidjani, Fafa  
makes sentencing recs to Court  
15:30:31 - Defendant: Pokorney, Richard  
speaks to Court on own behalf  
15:35:30 - Judge: McLaughlin, Michael R.  
appeal rights  
15:37:13 - Judge: McLaughlin, Michael R.  
to defendant, as to sentence  
15:41:33 - Judge: McLaughlin, Michael R.  
will impose 30 years fixed, life indeterminate, on each count, credit for  
15:42:29 - Judge: McLaughlin, Michael R.  
time served 364 days, each count CC  
15:44:02 - Operator  
Stop recording:

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:19

JAN 10 2008

J. DAVID NAVARRO, Clerk  
By \_\_\_\_\_ DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

RICHARD DAVID POKORNEY,

Defendant.

Case No. H0700182

JUDGMENT OF CONVICTION

DOB: 5/30/53  
SSN: 553-96-5387

This being the time fixed by the Court for pronouncing sentence upon the defendant, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and Edward Odessey, counsel for the defendant, in court.

The defendant was duly informed of the Indictment filed against him, and the defendant was found guilty by a jury on October 22, 2007 of the crimes of COUNT I: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 committed on or between May of 2003 to May of 2004; COUNT II: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 committed on or between June 2004 and May 2006; COUNT III: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 committed on or during the year 2006; COUNT V: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C.



1 §18-1508 committed during the years 2005 and 2006; COUNT VI: LEWD CONDUCT  
2 WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 committed on or  
3 between the years of 1995 and 1996; and COUNT VII: LEWD CONDUCT WITH A  
4 MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 committed on or between the  
5 years of 1995 and 1996. Count IV was dismissed.

6 The defendant, and his counsel, were then asked if they had any legal cause or  
7 reason to offer why judgment and sentence should not be pronounced against the  
8 defendant, and if the defendant, or his counsel, wished to make a statement on behalf  
9 of the defendant, or to present any information to the Court in mitigation of punishment;  
10 and the Court, having accepted such statement, and having found no legal cause or  
11 reason why judgment and sentence should not be pronounced against the defendant  
12 at this time; does render its judgment of conviction as follows, to-wit:

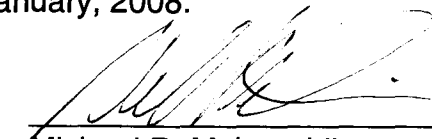
14 That, whereas, the defendant having been found guilty by a jury of the crimes of  
15 COUNT I: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C.  
16 §18-1508; COUNT II: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony  
17 under I.C. §18-1508; COUNT III: LEWD CONDUCT WITH A MINOR UNDER  
18 SIXTEEN, a felony under I.C. §18-1508; COUNT V: LEWD CONDUCT WITH A  
19 MINOR UNDER SIXTEEN, a felony under I.C. §18-1508; COUNT VI: LEWD  
20 CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508; and  
21 COUNT VII: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C.  
22 §18-1508.

24 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the  
25 defendant, RICHARD DAVID POKORNEY, is guilty of the crimes of COUNT I: LEWD

1 CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508; COUNT  
2 II: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-  
3 1508; COUNT III: LEWD CONDUCT WITH A MINOR UNDER SIXTEEN, a felony  
4 under I.C. §18-1508; COUNT V: LEWD CONDUCT WITH A MINOR UNDER  
5 SIXTEEN, a felony under I.C. §18-1508; COUNT VI: LEWD CONDUCT WITH A  
6 MINOR UNDER SIXTEEN, a felony under I.C. §18-1508; and COUNT VII: LEWD  
7 CONDUCT WITH A MINOR UNDER SIXTEEN, a felony under I.C. §18-1508 and that  
8 he be sentenced to the Idaho State Board of Correction, under the Unified Sentence  
9 Law of the State of Idaho, **on each Count**, for an aggregate term of Life imprisonment,  
10 to be served as follows: a minimum period of confinement of thirty (30) years, followed  
11 by a subsequent indeterminate period of custody not to exceed Life imprisonment, with  
12 said terms to run concurrently with each other and said terms to commence  
13 immediately. The defendant shall receive three hundred sixty-four (364) days credit for  
14 time served prior to the entry of this Judgment.  
15

16 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this  
17 Judgment and Commitment to the said Sheriff, which shall serve as the commitment of  
18 the defendant.  
19

20 Sentenced and dated this 9th day of January, 2008.

21   
22 Michael R. McLaughlin  
23 District Judge  
24  
25  
26

**CERTIFICATE OF MAILING**

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 10<sup>th</sup> day of January, 2008, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

ADA COUNTY PROSECUTING ATTORNEY  
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER  
INTERDEPARTMENTAL MAIL

DEPARTMENT OF CORRECTIONS  
CENTRAL RECORDS  
1299 N ORCHARD SUITE 110  
BOISE ID 83706

ADA COUNTY JAIL  
VIA MARSHAL'S OFFICE

PSI DEPARTMENT  
INTERDEPARTMENTAL MAIL

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho

By

  
Deputy Clerk

JAN 17 2008

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

J. DAVID NAVARRO, Clerk  
By AURQUIDI  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	
	)	
vs.	)	Criminal No. H0700182
	)	
	)	NOTICE OF APPEAL
RICHARD D. POKORNEY,	)	
	)	
Defendant-Appellant.	)	
_____	)	

TO: THE ABOVE NAMED RESPONDENT, GREG BOWER, ADA COUNTY  
PROSECUTOR, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Defendant, appeals against the State of Idaho to the Idaho Supreme Court from the final Decision and Order entered against him in the above-entitled action on the 9th day of January, 2008, the Honorable Michael R. McLaughlin, District Judge, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the Judgment described in paragraph one (1) above is appealable pursuant to I.A.R. 11(c)(1).
3. That the Defendant requests the entire reporter's standard transcript as defined in Rule 25(a), I.A.R.

4. The Defendant also requests the preparation of the following additional portions of the reporter's transcript:

Hearings held: October 10, 15, 2007;  
Jury Trial October 16, 2007; Sentencing  
January 9, 2008.

5. The Defendant requests that the clerk's record contain only those documents automatically included as set out in I.A.R. 28(b)(2), including the Grand Jury Transcript if Indicted, any Jury Instructions requested and given, and Pre-Sentence Investigation Report.

6. I certify:

- a) That a copy of this Notice of Appeal has been served on the reporter.
- b) That the Defendant is exempt from paying the estimated transcript fee because he is an indigent person and is unable to pay said fee.
- c) That the Defendant is exempt from paying the estimated fee for preparation of the record because he is an indigent person and is unable to pay said fee.
- d) That the Defendant is exempt from paying the appellate filing fee because he is indigent and is unable to pay said fee.
- e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

7. That the Defendant anticipates raising issues including, but not limited to:

- a) Abuse of discretion in Sentencing.

**DATED** This 17th day of January, 2008.

  
\_\_\_\_\_  
**EDWARD B. ODESSEY**  
Attorney for Defendant


**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, That on the 17th day of January, 2008, I mailed a true and correct copies of the foregoing, **NOTICE OF APPEAL** to:

**LAWRENCE G. WASDEN, ATTORNEY GENERAL, and**

**HONORABLE JUDGE MICHAEL R. McLAUGHLIN'S COURT REPORTER**

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Stephanie Martinez

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front St., Ste. 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

RECEIVED

JAN 17 2008

NO. \_\_\_\_\_ FILED  
A.M. 10:00 P.M. \_\_\_\_\_

JAN 22 2008

J. DAVID NAVARRO, Clerk  
By  DEPUTY

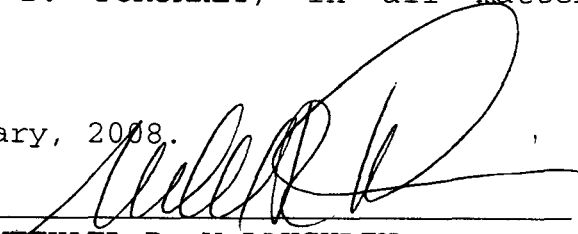
Ada County Clerk  
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	Criminal No. H0700182
	)	
vs.	)	
	)	
RICHARD D. POKORNEY,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
Defendant-Appellant.	)	ON DIRECT APPEAL
	)	

The above-named Defendant, **RICHARD D. POKORNEY**, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant having elected to pursue a direct appeal in the above entitled matter;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That the Idaho State Appellate Public Defender is appointed to represent the above named Defendant, **RICHARD D. POKORNEY**, in all matters pertaining to the direct appeal.

DATED This 22 day of January, 2008.

  
MICHAEL R. McLAUGHLIN  
District Judge

ORDER APPOINTING STATE APPELLATE  
PUBLIC DEFENDER ON DIRECT APPEAL

 PA. PD

00122

MOLLY J. HUSKEY  
State Appellate Public Defender  
State of Idaho  
I.S.B. # 4843

SARA B. THOMAS  
Chief, Appellate Unit  
I.S.B. # 5867  
3647 Lake Harbor Lane  
Boise, Idaho 83703  
(208) 334-2712

ORIGINAL

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ 4:00

ORIGINAL  
J. DAVID NAVE, CLERK  
By BRADLEY J. THIES  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

RICHARD DAVID POKORNEY,

Defendant-Appellant.

CASE NO. H0700182

S.C. DOCKET NO. 34945

AMENDED  
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND  
THE PARTY'S ATTORNEYS, FAFA ALIDJANI, ADA COUNTY PROSECUTOR,  
200 WEST FRONT STREET, BOISE, IDAHO, 83702, AND THE CLERK OF THE  
ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction entered in the above-entitled action on the 10<sup>th</sup> day of January, 2008, the Honorable Michael R. McLaughlin, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).



3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is:

(a) Did the district court err in imposing an excessive sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Presentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) Pretrial Conference held on October 10, 2007;

(b) Jury Trial held October 16–22, 2007, including, the opening statements, closing arguments, jury instruction conferences, and orally presented jury instructions; and

(b) Sentencing Hearing held on January 9, 2008.

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

(a) Grand Jury Transcript filed April 11, 2007;

(b) Notice of Intent to Introduce Evidence & State's Brief in Support filed May 17, 2007;

(c) Addendum Notice of Intent to Introduce Evidence Pursuant to I.R.E. 404b and I.R.C. 16 filed May 22, 2007;


- (d) State's Objection & Response to Defendant's Motion to Exclude Evidence filed May 29, 2007;
- (e) State's List of Trial Witnesses filed October 10, 2007;
- (f) Defendant's List of Trial Witnesses filed October 10, 2007;
- (g) All proposed and given jury instructions including, but not limited to, the Instruction to the Jury filed October 22, 2007; and
- (h) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);

(e) That service has been made upon all parties required to be served pursuant to I.A.R 20.

DATED this 28<sup>th</sup> day of February, 2008.



MOLLY J. HUSKEY  
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 28<sup>th</sup> day of February, 2008, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

RICHARD DAVID POKORNEY  
INMATE # 24948  
IDAHO STATE CORRECTIONAL INSTITUTION UNIT 15  
PO BOX 14  
BOISE ID 83707

EDWARD B ODESSEY  
ADA COUNTY PUBLIC DEFENDERS OFFICE  
200 W FRONT ST DEPARTMENT 17  
BOISE ID 83702  
STATEHOUSE MAIL

TAMARA HOHENLEITNER  
200 W FRONT ST  
BOISE ID 83702

FAFA ALIDJANI  
ADA COUNTY PROSECUTORS OFFICE  
200 WEST FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
PO BOX 83720  
BOISE ID 83720 0010  
Hand delivered to Attorney General's mailbox at Supreme Court



---

HEATHER R. CRAWFORD  
Administrative Assistant

MJH/TMF/hrc

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

RICHARD DAVID POKORNEY,

Defendant-Appellant.

Supreme Court Case No. 34945

CERTIFICATE OF EXHIBITS

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Pre-Sentence Investigation Report.
2. Transcript Of Grand Jury Hearing Held February 6, 2007, Boise, Idaho, filed April 11, 2007.
3. Addendum Notice Of Intent To Introduce Evidence Pursuant To IRE 404(b) And IRC Rule 16 with State's Exhibit "B" Submitted Under Seal In Support Of State's Notice Of Intent To Introduce 404(b) Evidence Per I.R.E. And I.C.R. 16, filed May 22, 2007.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Instructions To The Jury, filed October 22, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 21st day of March, 2008.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk

CERTIFICATE OF EXHIBITS

00128

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Michael McLaughlin /Kristin Brown

JURY TRIAL

October 16-22, 2007

District Judge

Clerk

STATE OF IDAHO,

Plaintiff,

vs.

RICHARD POKORNEY,

Defendant.

EXHIBIT LIST

Case No. H0700182

FAFA ALIDJANI

RICHAR POKORNEY

Deputy Ada County Prosecutor  
Plaintiff Attorney

Defendant Pro-Se

BY	NO.	DESCRIPTION	STATUS	DATE
State	1	Redacted Ltr to Ragner P. from Def	Admit	10-18-07
State	2	Original Ltr to Ragner P. from Def (did <b>not</b> go to jury)	Limited Admit	10-22-07
Def	A	2 <sup>nd</sup> Redacted Ltr to Ragner P. from Def	Admit	10-22-07

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

RICHARD DAVID POKORNEY,

Defendant-Appellant.

Supreme Court Case No. 34945

CERTIFICATE OF SERVICE

I, J. DAVID NAVARRO, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

J. DAVID NAVARRO  
Clerk of the District Court

Date of Service: MAR 21 2008

By BRADLEY J. THIES  
Deputy Clerk

CERTIFICATE OF SERVICE

00130

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

RICHARD DAVID POKORNEY,

Defendant-Appellant.

Supreme Court Case No. 34945

CERTIFICATE TO RECORD

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 17th day of January, 2008.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk

CERTIFICATE TO RECORD

00131